

# **FINANCIAL SERVICES AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 2016**

**TUESDAY, MAY 5, 2015**

U.S. SENATE,  
SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS,  
*Washington, DC.*

The subcommittee met at 10:40 a.m., in room SD-138, Dirksen Senate Office Building, Hon. John Boozman (chairman) presiding.  
Present: Senators Boozman, Moran, Lankford, and Coons.

## **SECURITIES AND EXCHANGE COMMISSION**

### **STATEMENT OF HON. MARY JO WHITE, CHAIR**

#### **OPENING STATEMENT OF SENATOR JOHN BOOZMAN**

Senator BOOZMAN. Good morning. The subcommittee will come to order. I apologize that we are running just a little bit late.

The only thing that we have to do around here is vote when we are supposed to vote, and we never really know when those are called. We'd be living right, though, to get that out of the way so it is not right in the middle of your testimony.

So I would like to welcome our witnesses, the Securities and Exchange Commission (SEC) Chair Mary Jo White, and the Commodity Futures Trading Commission (CFTC) Chairman Tim Massad. Thank you so much for being with us today. We look forward to hearing from you about the details of your budget request, as well as how you are using the increases you received in 2015 to carry out your core missions.

As members of this subcommittee, we have a tremendous responsibility to ensure funds we oversee are spent wisely. Both of your agencies are asking for significant increases for 2016. The SEC is asking for \$1.722 billion, a 15 percent increase. The CFTC is asking for \$322 million, which is a 29 percent increase more than in 2015.

Yet just last year, both agencies received sizable increases. The SEC's budget increased by \$150 million, or 11 percent over 2014. The CFTC's budget grew \$35 million, or 16 percent. These increases are more generous than those provided to any other agency in the bill.

Unfortunately, as we have seen too often, access to more funding does not necessarily ensure that an agency will successfully achieve its mission or spend that funding responsibly. Under the Budget Control Act and the House/Senate budget resolutions, the discre-

tionary spending caps for fiscal year 2016 limit nondefense spending to just \$493 billion. This represents an increase of just \$1.1 billion over the fiscal year of 2015 level for all nondefense departments and agencies.

While the SEC's funding structure is different than most agencies under our jurisdiction because it is funded by fees, we continue to take our oversight duties very seriously. Just because the SEC's fees come from public companies and investors does not in any way minimize the responsibility to ensure that the SEC is operating effectively and the funds are being spent wisely.

All agencies have to make strategic decisions on how to best allocate resources. As we review your budget request, I am most interested to hear what decisions you have made to operate more efficiently in order to carry out your responsibilities within current funding levels. Spending on staffing levels and benefits, space, equipment needs, and technology must all be carefully considered so that they do not create unsustainable burdens for future years.

We all benefit from a system that promotes fair and orderly markets. So I am concerned when regulations fragment the market, needlessly raise the cost of doing business, or push trading overseas. I ask you to be persistent in trying to work together and coordinate with your fellow regulators, including other Federal agencies, self-regulatory organizations, and your international counterparts.

Inconsistent rules at the SEC and the Department of Labor governing fiduciary standards continue to cause uncertainty and confusion. I remain concerned that the Department of Labor's (DOL) proposal could limit affordable retirement options for low- and middle-income Americans.

It is my hope that the SEC will conduct thorough oversight of the Financial Industry Regulatory Authority's (FINRA) rulemaking related to its Comprehensive Automated Risk Data System (CARDS) proposal. FINRA's original rule proposal would have substantially increased transaction costs while exposing investors to significant security risks. It is my understanding these rules are being reworked due to widespread concerns, and I look forward to working with the SEC to ensure these concerns have been addressed.

Lastly, cross-border harmonization remains elusive due to divergent approaches your agencies have taken to implement derivatives market reforms contained in Title VII of Dodd-Frank. In numerous instances, the CFTC has simply chosen to issue guidance in what looks like an effort to avoid cost/benefit analysis.

In many cases, the CFTC has moved too quickly and opted to act alone instead of effectively coordinating with the SEC and international regulators. I encourage you to work with each other and your fellow commissioners as you negotiate a workable derivatives regime with European regulators that is clear, consistent, and reasonable.

You both have an important job of protecting investors who look to the markets to help ensure their retirements, pay for their homes, and send their kids to college. Your agencies have an obligation to protect investors and customers from the next Madoff, Peregrine, MF Global, or Stanford situation, and you must improve

transparency and uncover fraud and deception without over-regulating our markets and hindering our economic recovery.

The American people want a government that works for them, not against them. They want us to curb wasteful spending; make the Government more efficient, effective, and accountable; and pursue policies that create economic opportunities for everyone. These are the priorities of the American people that will be reflected in the critical oversight we conduct as we consider the fiscal year 2016 budget request for all of the agencies within our jurisdiction.

Thank you again for being here, and we really do appreciate your hard work.

I will now turn to my ranking member, Senator Coons, for his opening statement.

#### STATEMENT OF SENATOR CHRISTOPHER A. COONS

Senator COONS. Thank you, Chairman Boozman.

I would also like to welcome our witnesses here today and thank them for their service.

We are here to consider the budget requests for the SEC and the CFTC, two financial sector regulators with tremendous responsibilities to preserve the integrity of our markets, protect investors and consumers. The SEC and CFTC play a critical role in ensuring that we have safe, liquid, and vibrant capital markets. And as the financial crisis made clear, we need these agencies to be fully equipped to do their vital jobs.

Our economy has come a long way since the depths of the crisis, and as we continue to heal, we must ensure we have appropriate measures in place to safeguard investors of all types, from institutional investors to families to those saving for retirement. In its role working overseeing securities markets, the SEC protects investors; maintains efficient, orderly, and fair securities markets; and facilitates capital formation.

The SEC also oversees investment advisers, mutual funds, securities exchanges, broker-dealers, investment advisers, and many other entities. On top of that, it has the daunting and important task of writing all the regulations in its area for Dodd-Frank and promulgating relevant rules for the JOBS Act.

The CFTC works to avoid systemic risk by fostering transparent, open, competitive, and sound futures markets. The Commission protects market users and the public from abusive practices and oversees markets, swap execution facilities, clearing operations, data repositories for swaps and swap dealers, and other important intermediaries. Their mission is so expansive that the Commission now oversees a \$400 trillion notional value swaps market.

When I first read that, I thought it was a typo. Four hundred trillion is more than five times larger than the combined GDP of Earth. Given the enormity of the responsibilities—just thought I would start off by emphasizing the scope of all this.

Given the enormity of the responsibilities assigned to both SEC and CFTC, it is critical Congress, and in particular this subcommittee, provide you the resources needed to responsibly protect investors and oversee markets. So, to Chair White and to Chairman Massad, I am eager to discuss how you are currently using the funds Congress provided in fiscal year 2015.

Both your agencies received increases this year, although significantly less than requested in the budget and more so than in prior years, and I look forward to learning about what each of your agencies have been able to accomplish with those investments. I am also interested in learning about what resource gaps still exist that, if filled, would allow you to become more responsive and robust regulators.

As we look ahead to fiscal year 2016, I would like to hear about your most pressing funding priorities, as well as your honest appraisal of the potential impacts on your operations should your funding requests not be fully met. In short, what planned activities and initiatives would not be realized and with what practical consequences?

I understand, broadly speaking, funding forecasts always seem bleak and times remain tough. So with sequestration looming, this subcommittee and the Appropriations Committee as a whole will be dealing with challenges as we face competing demands. Yet in my view, shortchanging your two agencies in particular would be irresponsible.

So I look forward to your testimony today and to exploring the opportunities in front of us.

Chairman Boozman, thank you for convening this hearing. I am committed to working together as we consider the resource needs of these two important financial regulators.

Senator BOOZMAN. Thank you, Senator Coons.

Chair White, I now invite you to present your remarks on behalf of the SEC.

#### SUMMARY STATEMENT OF HON. MARY JO WHITE

Ms. WHITE. Thank you very much, Chairman Boozman, Ranking Member Coons, Senator Moran, other members of the subcommittee.

Thank you for inviting me to testify in support of the SEC's 2016 budget request and to discuss what I believe is the compelling basis for funding the agency at a level of \$1.72 billion and how the SEC would effectively use the requested funds.

I also want to express my appreciation to the subcommittee for its support of the SEC, its mission and budget, as well as to Chairman Massad for his cooperation and leadership.

Understanding the growth in the size and complexity of the SEC's responsibilities and in the markets we oversee is critical to assessing the agency's current funding needs and putting into context the SEC's budget over the past several years. From fiscal year 2001 to the start of this fiscal year, for example, assets under management of SEC-registered investment advisers increased approximately 254 percent from \$17.5 trillion to approximately \$62 trillion, and our trading volume in the equity markets more than doubled to in excess of \$67 trillion.

The agency now regulates more than 25,000 market participants and has entirely new or expanded jurisdiction over securities-based swaps, private fund advisers, credit rating agencies, municipal advisers, clearing agencies, and crowdfunding portals, among others.

Improvements to technology and operations have made the agency more efficient and effective, but to fulfill our mission, we must

keep pace with the size and complexity of our markets and the entities participating in them.

As a point of reference, it has been reported that the 4 largest financial institutions—4 of the over 25,000 market participants we regulate—each spends approximately \$7 billion to \$10 billion annually on technology alone, compared to the SEC’s entire budget for fiscal year 2015 of \$1.5 billion.

The SEC’s fiscal year 2016 budget request would help us to advance several key priorities, including increasing examination coverage of investment advisers and other entities who serve retail and institutional investors. A decade ago, the SEC had approximately 20 examiners per trillion dollars of assets under management, while today we have only 7 and can now examine only 10 percent of investment advisers each year, which represents approximately 25 to 30 percent of the assets under management.

Our request would also allow us to further leverage technology and recruit experts to increase the efficiency and effectiveness of our programs; enhance our enforcement program’s analytic, investigative, and litigation capabilities; and strengthen the SEC’s economic and risk analysis functions.

#### SEC ACCOMPLISHMENTS AND FUNDING CHALLENGES

Since I testified last April, the SEC has accomplished a great deal. We, for example, completed critical reforms to money market funds, credit rating agencies, Regulation A, and asset-backed securities, as well as significant enhancements to market resiliency, including against cyber attacks.

Most of our Dodd-Frank and JOBS Acts mandates are now completed, and we are prioritizing finalizing the remaining ones, which primarily relate to the securities-based swap market, executive compensation, and crowdfunding. In other core areas of our mission, we advanced our work on U.S. equity and fixed-income market structure and made significant progress in developing measures for enhancing risk monitoring and regulatory safeguards for the asset management industry and on our initiative to improve the effectiveness of the public company disclosure regime.

Our Division of Enforcement also achieved very significant results, bringing 755 enforcement actions across all priority areas and obtaining orders for more than \$4.16 billion in disgorgement and penalties, both at record levels.

These and other accomplishments represent substantial achievements for the agency, but significant funding challenges remain. As I have detailed in my written testimony, the SEC’s fiscal year 2016 budget request seeks to address those challenges head on by providing the resources to allow the SEC to hire additional staff needed in critical core areas and to further advance our information technology.

As the Chairman indicated, the SEC’s funding mechanism is deficit neutral, which means that the amount Congress appropriates to the SEC will not have an impact on the Nation’s budget deficit, nor will it impact the amount of funding available for other agencies. Nonetheless, we take very seriously, as the Chairman also indicated, our very important responsibility to be prudent stewards of the funds the agency is appropriated.

Thank you again for your support of the agency's vital mission to protect investors, strengthen our markets, and promote capital formation. I would be very pleased to answer your questions.  
[The statement follows:]

PREPARED STATEMENT OF HON. MARY JO WHITE

Chairman Boozman, Ranking Member Coons, and members of the subcommittee:

Thank you for inviting me to testify today in support of the President's fiscal year 2016 budget request for the Securities and Exchange Commission.<sup>1</sup> I appreciate the opportunity to describe the compelling basis for funding the agency at a level of \$1.722 billion to help it fulfill its obligation to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation.<sup>2</sup>

The U.S. securities markets are complex and constantly evolving, and the activities within our jurisdiction are not static. Understanding the growth in the size and complexity of the agency's responsibilities and in our markets, market participants, and investment products is critical to assessing the agency's funding needs. From fiscal year 2001 to the start of this fiscal year, for example:

- Assets under management of SEC-registered investment advisers increased approximately 254 percent from \$17.5 trillion to approximately \$62 trillion;
- Assets under management of mutual funds grew by 143 percent from \$6.4 trillion to \$15.6 trillion; and
- Annual trading volume in the equity markets more than doubled to in excess of \$67 trillion.

During this same period, the SEC's responsibilities have also dramatically increased, adding or expanding jurisdiction over securities-based swaps, private fund advisers, credit rating agencies, municipal advisers, and clearing agencies, among others. Improvements to technology and operations have made the agency more efficient and effective, but to continue to meet our mission, we must be able to keep pace with the current and growing size and complexity of our markets and the entities participating in them.

The agency today currently oversees more than 25,000 market participants, including nearly 12,000 investment advisers, approximately 10,500 mutual funds and exchange-traded funds, nearly 4,500 broker-dealers, and about 450 transfer agents. The agency also oversees 18 national securities exchanges, 10 credit rating agencies, and 8 active registered clearing agencies, as well as the Public Company Accounting Oversight Board (PCAOB), Financial Industry Regulatory Authority (FINRA), Municipal Securities Rulemaking Board (MSRB), the Securities Investor Protection Corporation (SIPC), and the Financial Accounting Standards Board (FASB). The SEC also has responsibility for reviewing the disclosures and financial statements of approximately 9,000 reporting companies and for enforcing compliance with the Federal securities laws.

The SEC's fiscal year 2016 budget request seeks to address our current needs and the challenges we face by providing resources to allow the SEC to hire an additional 431 staff in critical, core areas and enhance our information technology. Specifically, as described in more detail below, the requested budget level would allow the SEC to advance several key and pressing priorities, including:

- Increasing examination coverage of investment advisers and other key entities who service retail and institutional investors;
- Further leveraging cutting-edge technology to permit the SEC to better keep pace with the entities and markets we regulate;
- Protecting investors by expanding our enforcement program's investigative capabilities and strengthening our ability to litigate against wrongdoers;
- Strengthening the SEC's economic and risk analysis functions; and
- Hiring additional market experts to enhance the agency's capability to fulfill its expanded and increasingly complex responsibilities.

As the subcommittee is aware, the SEC's funding mechanism is deficit-neutral, which means that the amount Congress appropriates to the agency will not have an impact on the Nation's budget deficit, nor will it impact the amount of funding

<sup>1</sup> A copy of the SEC's fiscal year 2016 Congressional Budget Justification can be found on our Web site at <http://www.sec.gov/about/reports/secfy16congbudjust.shtml>.

<sup>2</sup> The views expressed in this testimony are those of the Chair of the Securities and Exchange Commission and do not necessarily represent the views of the President, the full Commission, or any Commissioner. In accordance with past practice, the budget justification of the agency was submitted by the Chair and was not voted on by the full Commission.

available for other agencies.<sup>3</sup> Our appropriation also does not count against the caps set in the bi-partisan congressional budget framework for 2015 and 2016. Nonetheless, I deeply appreciate that we have a serious responsibility to be an effective and prudent steward of the funds we are appropriated, and I believe we have demonstrated how seriously we take that responsibility.

Last year was one of important achievements for the SEC, but more remains to be done. Below is a summary of the accomplishments of the SEC in the past year and of the significant challenges ahead, as well as a more detailed description of key aspects of the fiscal year 2016 budget request.

*Significant Achievements, But More Remains*

Since I testified before this subcommittee last April, the SEC has accomplished a great deal in many areas important to our mission and in fulfilling congressional mandates. Over the last year, informed and supported by rigorous and robust economic analyses, the Commission has adopted a series of critical reforms, including rules that directly respond to the financial crisis and that protect the integrity of our markets. We have made substantial progress implementing the rulemakings mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) and the Jumpstart Our Business Startups Act (JOBS Act). The rules on which the Commission has taken action in the last year include:

- Asset-Backed Securities.* The Commission completed rules requiring significant enhancements to registered offering disclosures for asset-backed securities, a market with \$4.8 trillion in issuances over the past decade that includes the types of securities backed by residential and commercial real estate that played a central role in the financial crisis.
- Credit Rating Agencies.* The Commission finalized over a dozen rules that will reduce conflicts of interest and strengthen the integrity of nationally recognized statistical ratings organizations and the transparency of their ratings. The Commission also continued to remove references to credit ratings, bringing the total of removed references to 30 and leaving only four rules and one form with references to be removed.
- Money Market Funds.* The Commission completed reforms designed to enhance the structure and operation of the \$3.7 trillion money market fund market to enhance the protection of investors and to support financial stability.
- Security-Based Swaps.* The Commission proceeded with the next critical phase of its implementation of Title VII of the Dodd-Frank Act, adopting new rules for previously unregulated derivatives by mandating the parameters for covered entities and establishing registration and reporting requirements for security-based swap data repositories. In particular, in June 2014 the Commission adopted the threshold series of key rules and guidance on cross-border security-based swap activities for market participants, and earlier this year adopted rules that require security-based swap data repositories to register with the SEC and prescribe reporting and public dissemination requirements for security-based swap transaction data. In addition, recently the Commission voted to propose rules governing the application of certain requirements to security-based swap transactions connected with a non-U.S. person's dealing activity in the United States.
- Capital Formation.* On March 25 of this year, the Commission voted to adopt a potentially transformative rule under the JOBS Act to significantly enhance the existing Regulation A exemption from registration for small offerings of securities. The Commission also advanced rules to implement JOBS Act provisions concerning registration and reporting thresholds under Exchange Act Section 12(g).
- Risk Retention.* As required by the Dodd-Frank Act, the Commission approved a joint agency rule requiring sponsors of securitization transactions to retain risk in those transactions.
- Market Stability and Oversight.* The Commission adopted Regulation Systems Compliance and Integrity (Regulation SCI), creating for the first time mandatory technology and systems standards and reporting for significant market participants intended to reduce systems issues and improve the overall resiliency of our markets. On March 25 of this year, the Commission also voted to propose rule amendments to enhance the supervision of large proprietary trading firms, including those engaged in high frequency trading, which would require that broker-dealers trading in off-exchange venues become members of a national securities association.

<sup>3</sup> Section 991 of the Dodd-Frank Act requires the SEC to collect transaction fees from self-regulatory organizations in an amount designed to directly offset our appropriation.

—*Executive Compensation.* As required by the Dodd-Frank Act, the Commission proposed rules for enhancing corporate disclosure of hedging policies for officers and directors, and last month proposed rules to require companies to disclose the relationship between executive compensation and the financial performance of the companies.

Progress has also been made in our assessment of U.S. equity market structure to ensure that our markets remain the deepest and fairest in the world and optimally serve investors and companies of all sizes seeking to raise capital. In addition to the adoption of Regulation SCI and the proposal to enhance the supervision of large proprietary trading firms, we have published for notice and comment a proposal by the self-regulatory organizations (SROs) for a pilot to assess the impact of different tick sizes on the quality of the equity markets for small capitalization issuers. In response to my request, the exchanges conducted and have now completed an in-depth analysis of order types and reported on their findings, and have filed proposed rule changes to improve disclosures about how they use securities information processor (SIP) feeds and direct feeds. The exchanges and SIPs, at my request, are also expected to incorporate by June a time stamp in their data feeds to facilitate greater transparency on the issue of data latency. And we have brought a number of significant enforcement actions for violations of market integrity rules, including against exchanges and dark pools.<sup>4</sup>

In addition, we have established an equity market structure advisory committee to focus on the structure and operations of the U.S. equities markets (including Regulation NMS) and provide a formal mechanism through which the Commission can receive advice and recommendations specifically related to equity market structure issues. The membership of the committee reflects a diversity of backgrounds, expertise, and viewpoints on our current equity market structure that we expect will provide valuable input as SEC staff continues to pursue a broad market structure agenda focused on high frequency trading and fairness, market transparency, trading venue regulation, mitigating broker conflicts, and critical market infrastructure.<sup>5</sup> Staff also continues to pursue efforts to improve the market structure for trading fixed income securities, including municipal and corporate bonds, and is developing a far-ranging package of measures for enhancing the asset management industry's risk monitoring and regulatory safeguards.

We are also advancing our initiative to improve the effectiveness of the public company disclosure regime for investors and companies, where the staff has sought input from a broad range of market participants and is developing recommendations for the Commission's consideration. In addition, consistent with the Dodd-Frank Act, staff is currently engaged in a comprehensive review of the "accredited investor" definition.

The Division of Enforcement continued to achieve significant results, filing 755 enforcement actions and obtaining orders for more than \$4.16 billion in disgorgement and penalties in fiscal year 2014. Notable actions include the first series of cases involving violations of the "market access" rule, the first action enforcing the rule against investment advisers participating in "pay to play" arrangements, the first action against a private equity firm relating to its allocation of fees and expenses, and the first anti-retaliation case to protect a whistleblower who reported improper trading activity. Structural and strategic enhancements—including increased recruitment of industry experts, the augmentation of our data analytics capacities, and bolstered new training programs—within our Office of Compliance, Inspections and Examinations have led to a more effective, efficient examination program.

Despite this and other significant progress, there is much that the SEC still needs to do: from further implementing our mandated rulemakings, to continuing the initiatives outlined above, to further strengthening our economic and risk analysis functions, to hiring additional market and quantitative experts to further address our expanded responsibilities, to continuing to improve our technology and operations to make the agency more agile and effective. Outlined below is a brief overview of some of the key components of our request.

<sup>4</sup> *E.g.*, Press Release No. 2014–263, *Wedbush Securities and Two Officials Agree to Settle SEC Case* (Nov. 20, 2014), available at <http://www.sec.gov/News/PressRelease/Detail/PressRelease/1370543504806>; Press Release No. 2014–87, *SEC Charges NYSE, NYSE ARCA, and NYSE MKT for Repeated Failures to Operate in Accordance With Exchange Rules* (May 1, 2014), available at [www.sec.gov/News/PressRelease/Detail/PressRelease/1370541706507](http://www.sec.gov/News/PressRelease/Detail/PressRelease/1370541706507); and Press Release No. 2014–114, *SEC Charges New York-Based Dark Pool Operator With Failing to Safeguard Confidential Trading Information* (June 6, 2014), available at <http://www.sec.gov/News/PressRelease/Detail/PressRelease/1370542011574>.

<sup>5</sup> The first meeting of the equity market structure advisory committee is scheduled for May 13, 2015.



*Expanding Oversight of Investment Advisers and Strengthening Compliance*

Our current level of resources is not sufficient to permit the SEC to adequately examine investment advisers in a way that investors expect and deserve. The number of registered advisers has increased nearly 35 percent over the last decade, and the assets managed by these advisers have more than doubled. At the same time, the industry has become more complex, as evidenced by the increasing use of new and sophisticated products such as derivatives and structured products; the increased use of technologies that facilitate high-frequency and algorithmic trading; and the growth of complex families of financial services by companies with integrated operations that include both broker-dealer and investment adviser affiliates.

Even with the SEC's efficient use of limited resources to improve its risk assessment capabilities and focus its examination staff on areas posing the greatest risk to investors—efforts that helped to increase the number of investment adviser examinations approximately 20 percent from fiscal year 2013—the SEC was only able to examine 10 percent of registered investment advisers in fiscal year 2014. A rate of adviser examination coverage at that level presents a high risk to the investing public.

Under the fiscal year 2016 request, a top priority will be to hire 225 additional examiners, primarily to conduct additional examinations of investment advisers. Once fully on-board and trained, the investment adviser examiners would assist the agency's National Examinations Program (NEP) in increasing its examination coverage of advisers to an anticipated rate of approximately 14 percent per year.

The NEP also would add positions to improve oversight and examination functions related to broker-dealers, clearing agencies, transfer agents, self-regulatory organizations, swap data repositories, municipal advisors, and, in the future, crowdfunding portals, among others.

*Continue to Leverage Technology*

In fiscal year 2016, the SEC plans to build on the substantial progress made over the past few years to modernize its technology systems, streamline operations, and increase the effectiveness of its programs. The SEC's fiscal year 2016 budget request, which includes full use of the Reserve Fund, would support a number of key information technology (IT) initiatives, including:

- Data analytics tools*, to assist in the integration and analysis of huge volumes of financial market data, employing algorithms and quantitative models that can lead to earlier detection of fraud or suspicious behavior.
- Electronic Data Gathering, Analysis and Retrieval (EDGAR) modernization*, an ongoing, multi-year effort to simplify the financial reporting process to promote automation and reduce filer burden. With a more modern EDGAR, both the investing public and SEC staff will benefit from having improved access to better data.
- Examination improvements*, aimed toward improving risk assessment and surveillance tools that will help the staff monitor for trends and emerging fraud risks, as well as improving the workflow system supporting SEC examinations.
- Tips, Complaints, and Referral (TCR) system enhancements*, to bolster the flexibility, agility, and adaptability of the system. TCR enhancements will provide more flexible and comprehensive intake, triage, resolution tracking, searching, and reporting functionalities, with full auditing capabilities.
- Enforcement investigation and litigation tracking*, to support enforcement teams with handling the substantial volume of materials produced during investigations and litigations. Among other initiatives, the SEC hopes to build the capability to permit the electronic transmittal of data for tracking and loading (versus the current practice of receiving content via the mail); implement a document management system for Enforcement's internal case files; and revamp the tools used to collect trading data from market participants.
- Enterprise Data Warehouse (EDW)*, a centralized repository for the SEC to organize its various sources of data and help SEC staff gain easier access to more usable market data. The EDW is the SEC's primary effort to bring together data from different divisions and offices for easier and more efficient analysis across the agency.
- SEC.gov modernization*, to make one of the most widely used Federal Government Web sites more informative, easier to navigate, and secure for investors, public companies, registrants and the general public.
- Information security*, to further automate controls, continue the transition to continuous monitoring, and build the agency's risk management capabilities.
- Business process automation and improvement*, to build workflow applications that will improve the efficiency and effectiveness of the entire agency in serving the public.

The fiscal year 2016 request includes 14 new positions for the Office of Information Technology (OIT) to better execute these and other technology initiatives. These staff will serve as project managers, business analysts, and technical resources who will improve technology and data management support for the SEC's business areas. In addition, the positions will enhance information security through monitoring, and drive further improvements in IT equipment management and reporting.

#### *Bolster Enforcement*

It is vital to the SEC's mission to bring timely, high-quality enforcement actions when violations of the Federal securities laws are identified. The agency must adapt its enforcement function to keep pace with the growing size and complexity of the Nation's markets and to send strong messages to wrongdoers that misconduct will be swiftly and aggressively addressed. For fiscal year 2016, the SEC is requesting 93 new positions for the Division of Enforcement in three areas: staff proficient in conducting intelligence processing and analysis; investigative staff to permit the agency to more swiftly and effectively identify and respond to the high volume of securities-related misconduct; and litigation staff to address the growing number of contested enforcement matters nationwide.

Analysis of large datasets, including SEC filings and trading data in equities, options, municipal bonds, and other securities, helps to limit investor harm by permitting earlier detection of misconduct. The SEC's Enforcement program expects that both an increasing number of high-quality TCRs and its improved data analysis capabilities will yield additional case leads through fiscal year 2016. The Enforcement program anticipates dedicating 20 of the requested positions to further develop its data analytic function, increase the number of staff responsible for reviewing and triaging incoming TCRs, and bolster the number of staff to whom TCRs are sent for further investigation.

The Enforcement program also requires increased staffing to promptly detect complex frauds and other difficult-to-detect misconduct; respond to misconduct involving the changing equity markets, including misconduct related to algorithmic trading or dark pools; address large-scale insider trading or stock manipulations; investigate potential accounting or reporting fraud; and generally keep pace with a rapidly growing and evolving industry. As a result, the Division is seeking 50 new positions in fiscal year 2016 to reinforce its investigative functions. These new positions will help the Division continue progress on existing investigations and handle its increasing case load, while quickly investigating and bringing emergency actions in matters where investors' money may dissipate if immediate action is not taken.

In addition, in recent years an increasing percentage of enforcement actions have been filed as contested matters, as opposed to being fully settled at the outset. This has led to more trials than in the past, a volume that is expected to continue to grow. Therefore, the Enforcement program needs additional resources to handle an expansive and sophisticated docket of litigation and trials, often against well-funded adversaries. Enforcement requests 23 new positions in fiscal year 2016 to reinforce its litigation operations nationwide.

#### *Continued Prioritization of Economic and Risk Analysis to Support Rulemaking and Oversight*

The SEC remains committed to strengthening the economic and risk analysis functions housed in its Division of Economic and Risk Analysis (DERA), our fastest growing division. For fiscal year 2016, the SEC plans to add 6 new positions to DERA, building upon the 14 positions being added in fiscal year 2015. Specifically, in fiscal year 2016, DERA is seeking three positions to expand the agency's capability to provide high quality economic data in support of risk assessment and policy initiatives across the SEC. These employees would continue to expand DERA's ability to support SEC programs with data cleansing, normalization, and analysis; statistical programming, text analytics, and risk modeling; and quantitative research services. We are also requesting three additional positions for DERA to provide economic analytical capabilities to support enforcement litigation, particularly in the SEC's regional offices.

#### *Meet Expanded Rulemaking and Oversight Responsibilities*

The agency also is requesting 12 additional positions in fiscal year 2016 for its Division of Trading and Markets (TM). As the SEC's oversight of regulated entities and analysis of market events become more data-driven, TM is expanding its use of advanced quantitative skills, tools, and data to assess evolving markets. The Division therefore is expanding its efforts to recruit professionals with expertise in quantitative analysis, risk management, and equity and fixed income market structure. The additional positions will enhance supervision of securities markets, securities market infrastructure, securities intermediaries, and other market participants.

Recent legislation and rulemaking—including relating to over-the-counter derivatives, clearing agencies, and crowdfunding—also have substantially expanded TM’s responsibilities. As registration requirements for these rules become effective, scores of new entities will require Division oversight.

In addition, the SEC is seeking 12 new positions for its Division of Investment Management to operationalize new rulemaking requirements, offer enhanced guidance to registrants, expand the disclosure review program’s ongoing analysis of industry trends, and provide additional oversight of private fund advisers. The new positions would also monitor money market funds’ compliance with the new requirements adopted in fiscal year 2014 by the Commission, as well as assist in adopting—and ultimately operationalizing—the package of measures for enhancing the asset management industry’s risk monitoring and regulatory safeguards.

*Conclusion*

Thank you for your support of the agency’s vital mission and the opportunity to present the President’s fiscal year 2016 budget request. I would be happy to answer your questions.

Senator BOOZMAN. Thank you, Chair White.

And Chairman Massad, I now invite you to present your testimony on behalf of the CFTC.

## COMMODITY FUTURES TRADING COMMISSION

### STATEMENT OF HON. TIM MASSAD, CHAIRMAN

Mr. MASSAD. Thank you.

Good morning, Chairman Boozman, Ranking Member Coons, Senator Moran, and other members of the subcommittee.

Thank you for the opportunity to discuss the President's fiscal year 2016 budget request for the CFTC. I am pleased to be here today on behalf of the Commission.

I first want to thank our staff for their hard work and dedication, as well as my fellow commissioners. I believe we are all working together in good faith to carry out the Commission's responsibilities. I also want to thank Chair White and the staff of the SEC for their cooperation and collaboration.

Futures options and swaps markets that we oversee are profoundly important to our economy. They enable businesses of all types to manage risk, whether it is a farmer locking in a price for his crops, a manufacturer managing supply costs, or an exporter hedging foreign currency risk. These markets have been an engine for economic growth in our country, and they can continue to be so, but only if we maintain their integrity and transparency through sensible oversight.

We are grateful for our fiscal year 2015 budget increase, and I thank the subcommittee for their support. It has helped us modernize our information technology capabilities and bolster staff in critical areas. However, even with this increase, the CFTC's budget has not kept pace with its responsibilities, and this is for two reasons.

The first is the markets the Commission has traditionally overseen have grown significantly in scale, technological sophistication, and complexity. The number of actively traded futures and options contracts has doubled since 2010 and increased 6 times over the last 10 years. Trading is increasingly conducted in an automated, electronic fashion, even for traditional products such as agriculture and energy futures. Cyber attacks have become a major new threat to our markets.

Secondly, the Commission now has responsibility for overseeing the swaps market, the size of which, as Ranking Member Coons noted, is over \$400 trillion measured by notional amount. In 2008, we saw how the buildup of excessive risk in this market helped contribute to the worst financial crisis since the Great Depression. Eight million Americans lost their jobs.

Now, we are implementing a regulatory framework to make the swaps market safer and more transparent. Simply put, we need more resources to do the vital job of overseeing these important dynamic markets. That is why the President is requesting a budget of \$322 million for fiscal year 2016.

One third of our budget request, about 40 percent of the total requested increase, will go to data and technology. This reflects the nature of the markets today and the challenges we face every day.

Every day, we collect over 300 million data records that need to be processed. Our data intake and storage needs are increasing 35 percent a year, and these figures do not even include message data. That is, the billions of records regarding bids and orders, not just transactions, that we often must review to detect improper behavior.

Chair White noted that many financial institutions are spending \$7 billion on technology. Our technology budget this year was \$51 million.

Our budget request is also focused on enhancing our surveillance program. We must have highly skilled professionals, as well as high-powered data and technological capabilities, to monitor for the types of sophisticated manipulation that can occur today.

Our request will also enhance our enforcement efforts. Since I took office, we have focused on enforcement, because there is nothing more important than deterring fraud and manipulation. Already, in this fiscal year, we have imposed fines and penalties that are over 10 times our current budget, all of which go to the U.S. Treasury and are not available to fund our budget.

But for each case we initiate, there are many that we cannot pursue because of resource constraints. We must have adequate resources to go after abuses, whether they are price-fixing schemes by large institutions or investment scams perpetrated against retirees.

Our request will increase our ability to perform examinations of critical infrastructure like clearing houses. Clearing houses are even more important today in the global financial system, but we lack the resources to examine them as often as we should.

And the request will enable us to step up our cybersecurity efforts. A cyber attack could be devastating and could come not only from those motivated by money, but from those seeking to disrupt our financial system.

Finally, this budget will enhance our ability to respond to the concerns of commercial end-users. This is something I have made a priority since taking office last June. We have taken many actions to make sure our regulations do not impose undue burdens or unintended consequences on the commercial firms that need these markets to hedge routine risk, and we will continue to do this.

We will also continue to fine-tune our regulations and work on harmonizing, internationally and domestically, so that the new swaps rules fulfill the goals set by Congress.

The United States has had the best derivatives markets in the world for decades. This is because of the strength of our private sector, but it is also because we have had a regulatory framework that was sensible, one that promoted integrity and transparency as well as competition and innovation.

If we want our markets to continue to thrive and contribute to economic growth, we must make the necessary investment in oversight. Your support of our budget request will help us do just that.

Thank you again, and I look forward to your questions.  
[The statement follows:]

PREPARED STATEMENT OF HON. TIMOTHY G. MASSAD

Good morning, Chairman Boozman, Ranking Member Coons, and members of the subcommittee. I am pleased to testify before you this morning on behalf of the Commission regarding the President's request for the fiscal year 2016 budget for the Commodity Futures Trading Commission (CFTC).

The Commission has been very busy since two of my fellow commissioners and I joined about 11 months ago. We have taken several actions to make sure that commercial end-users can continue to use the derivatives markets effectively and efficiently. We have continued to work to bring the over the counter swaps market out of the shadows and implement the regulatory reforms mandated by Congress. We have focused on making sure clearinghouses are strong and resilient. We have worked to improve the swap trading framework and to enhance data collection. We have been collaborating with our domestic colleagues, including at the Securities and Exchange Commission, and I want to thank Chair White. There are a number of issues that impact both our agencies, and I appreciate our strong, cooperative working relationship. We have also worked closely with our international colleagues toward harmonizing new swaps rules as much as possible. And we are continuing to engage in the compliance, surveillance, and enforcement work that is necessary to prevent fraud and manipulation, and enhance market integrity and transparency. But there is much more we need to do.

Before discussing our budget request, I know I speak for all the Commissioners in thanking our dedicated and talented staff for their hard work and dedication. The progress we have made is a credit to their tireless efforts. I also want to thank each of my fellow commissioners for their efforts and commitment. I believe we are working together constructively and in good faith to do the best job we can in carrying out the Commission's responsibilities.

Our current fiscal year 2015 budget provides an increase of \$35 million over the previous year. This increase was essential to our ability to carry out our mission. We are grateful for it. We have outlined in our fiscal year 2015 Spending Plan how we are using these resources, which includes modernizing our information technology capabilities and bolstering our staff in critical areas.

Even with this increase, however, the CFTC's budget is not at a level that is commensurate with its responsibilities. Our responsibilities in the last few years have increased significantly, and now include overseeing the swaps market, an over \$400 trillion market in the U.S., measured by notional amount. In addition, the markets the Commission has traditionally overseen have grown in scale, technological sophistication, and complexity. The number of actively traded futures and options contracts has doubled since 2010 and increased 6 times over the last 10 years. Trading is increasingly conducted in an automated, electronic fashion, and cybersecurity has become a major new threat to the integrity and smooth functioning of the critical market infrastructure that the Commission regulates. While these developments, among others, have brought new responsibilities and challenges to the Commission, its capabilities have not kept pace. Our resources continue to be stretched far too thinly over many important responsibilities.

THE SIGNIFICANCE OF DERIVATIVES MARKETS AND IMPORTANCE OF SENSIBLE  
OVERSIGHT

The derivatives markets are profoundly important to a wide variety of businesses in our country. They enable businesses of all kinds to hedge commercial risk, whether it is a farmer locking in a price for his crops, a utility hedging the cost of fuel or an exporter managing foreign currency risk. Those businesses depend on the Commission to do its job efficiently and sensibly. The Commission's budget is a small, but vital, investment to make in order to make sure these markets operate with integrity and transparency.

It is also helpful to remember how excessive risk related to swaps contributed to the 2008 financial crisis, and the cost of that crisis to American families and our economy, to recognize the value of this investment. That crisis resulted in 8 million jobs lost, millions of foreclosed homes, countless retirements and college educations deferred, and businesses shuttered. Indeed, the amount of taxpayer dollars that were spent just to prevent the collapse of AIG as a result of its excessive swap risk was over 700 times the size of the CFTC's current budget. Another perspective on the size of our budget is the fact that from 2009 through 2014, the Commission col-

lected fines and penalties of approximately twice its cumulative budgets. This year the fines and penalties collected are already about 10 times our budget.

#### THE CFTC'S BUDGET REQUEST FOR FISCAL YEAR 2016

The Commission requests a budget of \$322 million and 895 full-time equivalents (FTE) for fiscal year 2016. This will enable us to engage in the following critical activities, among others, in support of our mission:

- Enhance our surveillance and enforcement capabilities to keep pace with our expanded oversight responsibilities and the overall growth and increasing complexity of the derivatives markets.
- Enable us to perform on a timely and thorough basis the examinations of critical market infrastructure, such as exchanges and clearinghouses, as well as intermediaries that hold billions of dollars in customer funds, to ensure that they are protecting customer interests and operating in compliance with Commission requirements.
- Enable us to review and provide timely responses to requests and concerns of derivatives market participants, including with respect to new product approvals and other innovations.
- Substantially expand our capabilities with respect to cybersecurity, which is the single most important threat to financial stability today.
- Make key investments in technology systems and resources that are vital to carry out our core mission activities.

Before I discuss the budget request in more detail, I would like to review what we have been doing in several areas.

#### ADDRESSING THE CONCERNS OF COMMERCIAL END-USERS

Over the last 11 months, we have taken several actions to make sure that commercial end-users can continue to use the derivatives markets effectively and efficiently. This has involved fine-tuning rules to ensure that they work as Congress intended and do not impose unintended consequences on commercial end-users. Some of the steps we have taken include:

- Local Utility Companies.*—In September, the Commission amended its rules so that local, publicly-owned utility companies could continue to effectively hedge their risks in the energy swaps market. These companies, which keep the lights on in many homes across the country, must access these markets efficiently in order to provide reliable, cost-effective service to their customers. The Commission unanimously approved a change to the swap dealer registration threshold for transactions with special entities which will make that possible.
- Customer Protection/Margin Collection.*—In March, the Commission unanimously approved a final rule to modify one aspect of our customer-protection related rules, which had previously been unanimously adopted in the wake of MF Global's insolvency and were designed to prevent a similar failure from recurring and to protect customers in the event of such a failure. To address a concern of many in the agricultural community and many smaller customers regarding the posting of collateral for their trades, we removed a provision that would have automatically changed the deadline for futures commission merchants to post "residual interest," which, in turn, can affect when customers must post collateral.
- Recordkeeping Requirements.*—We have proposed to exempt end-users and commodity trading advisors from certain recordkeeping requirements related to text messages and phone calls. This proposal is designed to make sure we do not impose undue recordkeeping requirements on commercial end-users.
- Treasury Affiliates of End-Users.*—The Commission staff took action to make sure that end-users can use the Congressional exemption given to them regarding clearing and swap trading if they enter into swaps through a treasury affiliate. It is common for a large corporation with significant non-financial operations to have a separate affiliate enter into swaps and financing transactions on behalf of the larger corporation and its subsidiaries.
- Reporting Requirements for Contracts in Illiquid Markets.*—CFTC staff recently granted relief from the real-time reporting requirements for certain less liquid, long-dated swap contracts that are not subject to mandatory clearing and do not yet trade on a regulated platform. We agreed to permit slightly delayed reporting for these swaps so that the real-time reporting requirements in Dodd-Frank do not lead to identifying market participants, as that could result in competitive harm.

- Volumetric Optionality*.—Last week, the Commission voted to clarify an interpretation of when certain agreements are forward contracts, rather than swaps. Specifically, we clarified when an agreement, contract, or transaction that contains embedded volumetric optionality falls within the forward exclusion from being considered a swap. “Embedded volumetric optionality” refers to the contractual right of a counterparty to receive more or less of a commodity at the negotiated contract price. Contracts with this feature are important to, and widely used by, a variety of end-users, including electric and natural gas utilities. By clarifying how these agreements will be treated for regulatory purposes, the interpretation is intended to make sure commercial companies can continue to conduct their daily operations efficiently. Once this interpretation is acted upon by the Securities and Exchange Commission, as definitional issues require actions by both Commissions, we will publicly release the final interpretation.
- Trade Options*.—Likewise, the Commission last week voted to issue a proposed rule reducing reporting and record keeping requirements with respect to trade options. These products are also commonly used by commercial participants.

#### FINISHING THE REMAINING RULES

A second priority has been to finish the few remaining rules required for the new swaps regulatory framework as agreed by the G-20 nations and enacted by Congress. This includes the rule on margin for uncleared swaps, which plays a key role in the new regulatory framework because uncleared transactions will always be an important part of the market. Certain products will not be suitable for central clearing because of their lack of sufficient liquidity or other risk characteristics. In these cases, margin will continue to be a significant tool to mitigate the risk of default from those transactions and, therefore, the potential risk to the financial system as a whole. We have made sure that our proposed rule on margin for uncleared swaps exempts commercial end-users from its requirements.

We are also working closely with the domestic bank regulators, who are also responsible for issuing rules on margin, to harmonize the rules as much as possible. I am hopeful that we can finalize these rules by the summer.

Another important rule we are working to complete is the position limits rule. The law mandates that the agency adopt limits to address the risk of excessive speculation. In doing so, we must also make sure that market participants can engage in bona fide hedging. We have received substantial input on this proposal and staff are considering these comments carefully.

#### CLEARING AND RISK

Clearinghouse oversight continues to be another priority. In this post-global financial crisis world, clearinghouses play an even more critical role than before. In our markets, for example, the percentage of swaps cleared has increased from 15 percent in December 2007 to about 75 percent today. So we need to make sure clearinghouses have strength and resiliency.

Over the last few years, the agency has done a major overhaul of its clearinghouse regulatory framework, including by incorporating international standards and taking other steps to strengthen risk management practices and customer protection. We are also engaged in extensive oversight activities that include, among other things, daily risk surveillance, stress testing, and in-depth compliance examinations. Our oversight efforts also focus on risk at the clearing member and large trader levels. And while our goal is to never get to a situation where recovery or resolution of a clearinghouse must be contemplated, we are working with fellow regulators, domestically and internationally, on the planning for such contingencies, in the event there is ever a problem that makes such actions necessary.

In addition, we are addressing new risks like cybersecurity. This applies to key exchanges and other critical infrastructure as well as clearinghouses. We have incorporated cyber concerns into our regulations and made it a priority in our examinations. Our challenge is to leverage our limited resources as effectively as possible. We do not have, for example, the resources to do independent testing of cybersecurity measures. Therefore, we are looking at whether the private companies that run major exchanges and clearinghouses are doing adequate testing themselves of their cyber protections, such as control testing, penetration testing and vulnerability testing.

#### IMPLEMENTING THE FRAMEWORK FOR SWAPS TRADING

We have also continued to make progress implementing the new framework for swaps trading. It has been a little over a year since the first made-available-for-



trade determinations. We currently have almost two dozen swap execution facilities (SEFs).

Information compiled by the International Swaps and Derivatives Association highlights some positive trends. Measured by trade count and notional value, SEF trading accounted for about half of total volume in 2014, and the percentage is much higher for swaps on CDS indices. We have also seen a significant increase in non-U.S. market participants participating on SEFs for credit indices.

Our goal is to build a regulatory framework that not only meets the congressional mandate of bringing this market out of the shadows, but which also creates the foundation for the market to thrive. To do so, the regulatory framework must ensure transparency, integrity and oversight, and, at the same time, permit innovation, freedom and competition.

We have taken several steps recently to improve SEF trading. This has included the following:

- Package Transactions.*—Last fall the staff issued no-action relief to provide market participants additional time to adapt to exchange-based trading. That phasing of compliance deadlines has worked well.
- Block Trades.*—The staff addressed the issue of pre-trade credit checks for block trades, and the so called “occurs away” requirement, so that block transactions could continue to be negotiated between parties and executed on SEF.
- Error Trades.*—CFTC staff issued no-action relief that will streamline the process for correcting erroneous trades.
- Cleared Swap Reporting.*—We intend to initiate a rulemaking to clarify reporting of cleared swaps as well as the role played by clearinghouses in this workflow. This rulemaking will propose to eliminate the requirement to report Confirmation Data for intended to be cleared swaps that are accepted for clearing and thereby terminated.
- SEF Confirmations.*—Staff has issued no-action relief permitting the SEF legal confirmation to incorporate the ISDA Master Agreement by reference. This also clarified the SEF reporting responsibility regarding uncleared swaps—SEFs need only report “Primary Economic Terms”—as well as any Confirmation Data they do in fact have.

*Flexibility Regarding Methods of Execution.*—Our staff has been working with SEFs to make it clear that our rules permit flexibility in methods of execution as long as the regulatory standards and goals are met. Staff has confirmed that an auction match trading protocol is acceptable as long as SEFs provide adequate transparency regarding the process for setting the offer price.

*SEF Financial Resources.*—Our staff has issued guidance that clarifies the calculation of projected operating expenses for the purpose of determining the capital that the law requires SEFs to hold. Specifically, the guidance clarifies that variable commissions that SEFs pay do not have to be included in a SEF’s calculation of projected operating costs.

I would note that in some areas where the staff has acted by no-action letter to provide temporary relief at the request of industry participants, we are considering taking up the issue in a rulemaking in order to find a permanent solution.

We are looking at a number of additional issues concerning SEFs, such as the made available for trade determination process and concerns about the lack of post-trade anonymity for certain types of trades, and we will continue to do all we can to improve the regulatory framework and enhance SEF trading.

#### CROSS-BORDER HARMONIZATION

We are also focused on addressing cross border issues related to the new framework. We have had productive discussions with the Europeans to facilitate their recognition of U.S. based clearinghouses. We have offered a substituted compliance framework for clearinghouse regulation which was their principal concern. I believe there is an ample basis for them to make a determination of equivalence, and I hope that they will do so soon.

Another important area for cross-border harmonization is the proposed rule on margin for uncleared swaps. We have been working with our counterparts in Europe and Japan, and I am hopeful that our respective final rules will be similar on most issues.

We are also focused on the cross-border implications of our trading mandate rules. This has been one of the greatest challenges. We were among the first to implement swaps trading rules and to mandate trading of certain products; many other jurisdictions have not yet done so. To avoid the potential for any regulatory arbitrage, we look forward to others adopting their own rules to implement swaps trading as

well as the other G-20 commitments, and we look forward to working with them to harmonize rules as much as possible.

#### ENFORCEMENT

We remain committed to a robust enforcement and compliance program to prevent fraud and manipulation. The Commission pursues cases covering a wide variety of potential market abuses and bad behavior, ranging from more common fraud and abuse like Ponzi schemes or precious metal scams that target retirees, to complex manipulation schemes driven by sophisticated, electronic trading strategies, to price fixing or benchmark manipulation through collusion among large traders. In just the last few weeks, we have announced some significant new cases.

Last month, the agency along with our colleagues at the Department of Justice, the U.K. Financial Conduct Authority and New York's Department of Financial Services announced settlements with Deutsche Bank over charges of false reporting and manipulation of the London Interbank Offered Rate (LIBOR), a critical, global benchmark interest rate, upon which trillions of dollars of contracts are indexed. The Commission brought the first LIBOR case in 2012, and collectively, the Commission has imposed over \$4 billion in penalties against 13 banks and brokers to address LIBOR and foreign exchange benchmark abuses. In a separate action, the Commission and the Department of Justice brought civil and criminal charges against an individual who we believe engaged in spoofing and sought to manipulate the E-mini S&P 500 futures on repeated occasions, at times successfully. His activity contributed to the order imbalance in trading in E-mini S&P 500 futures that contributed to market conditions that led to the flash crash of 2010. We worked closely not only with the Justice Department, but also the FBI, the U.K. Financial Conduct Authority and Scotland Yard on this case.

As these cases illustrate, we will do everything in our power, and within our resources, to pursue those who attempt to engage in fraud or manipulation in our markets. It is essential that our markets operate with integrity and fairness for all market participants.

#### THE 2016 BUDGET REQUEST ADVANCES KEY COMMISSION PRIORITIES

The 2016 budget request is focused on advancing key mission priorities. Of the requested \$72 million increase, nearly \$28 million is allotted for additional information technology investments that will help to modernize the Commission's capabilities. This would supplement the approximately \$51 million we plan on spending on technology in fiscal year 2015. The remaining \$44 million of the increase would provide for an additional 149 FTE for related mission-activity support, specifically targeting critical areas such as surveillance, enforcement, examinations, registration, and compliance, each described in more detail below.

#### SURVEILLANCE

The 2016 budget request seeks \$62.4 million for surveillance, an increase of \$5.9 million and 42 FTE over the fiscal year 2015 enacted level. The Commission must enhance its surveillance capabilities to keep pace with the growth and increasing technological sophistication of the markets. Effective surveillance is essential to detect excessive risk, fraud, abusive practices, and manipulation.

The days when market surveillance could be conducted by observing traders in floor pits are long gone. Today, not only is almost all trading electronic, but in many products a majority is conducted through highly sophisticated automated trading programs. The Commission is responsible for overseeing the markets in over 40 physical commodities, as well as a wide range of financial futures and options products based on interest rates, equities, and currencies. There are over 4,000 actively traded futures and options contracts and thousands more subject to our oversight when all tenors and associated options are included. On a typical day, there may be 750,000 transactions in Treasury futures and more than 700,000 in just the E-mini S&P 500 contract, the most active equity index future. And this does not include the approximately 7 million open swaps reported to SDRs. In just a single commodity category such as crude oil, there are typically hundreds of thousands of transactions every day. Transactions are only part of the picture, however. In today's high speed markets, manipulation and fraud are often conducted using complex strategies involving bids and offers, which far outnumber consummated transactions. Each day in the Treasury futures market, for example, there can be millions of bids and offers.

Successful market surveillance activities require us to have the ability to continually receive, load, and analyze large volumes of data. This requires a massive information technology investment, sophisticated analytical tools that we develop for

these unique environments and experienced professionals who can identify potential problems and engage in further inquiry.

Moreover, the swaps market presents different challenges than the futures and options market with respect to surveillance. This is because there are multiple trading platforms so data must be analyzed across platforms. There is also considerable voice-driven activity and complexities to the execution and processing of trades that do not exist in the vertically integrated futures markets that require different surveillance perspectives. Aggregating data to understand participants' positions across futures and swaps markets is particularly challenging.

Whether in futures, options, or swaps, market surveillance is not simply dependent on sophisticated technological systems. We must have experienced personnel who understand the markets we oversee, who can discern anomalies and patterns and who have the experience, judgment, and skills to investigate possible infractions. There is great variation among the various products traded in our markets, variation which requires specialized knowledge: The market structure, trading patterns, and complexities of the crude oil market are quite different from that of soybeans or any other agricultural product, and each commodity market itself has its own characteristics.

In addition to market surveillance, the Commission must oversee the risk being taken on by clearinghouses, individual clearing firms, and large market participants. We do this by continually monitoring their customer and house positions and margining practices. Given the global nature of our markets, our surveillance personnel examine data from CFTC-registered clearinghouses that are located abroad, and communicate frequently with regulators in other jurisdictions. These teams also look through at large customer positions being held at or managed by intermediaries, and they aggregate customer data across clearinghouses. Today, for example, 36 firms hold more than \$500 million each in customer funds, and 10 of these firms hold more than \$10 billion each in customer funds. Failure or trouble at any one firm, particularly a larger firm, could seriously disrupt our markets. On-site examinations are an important component of adequate surveillance, but we are limited as to the frequency of these examinations given the small size of our staff.

Without the requested increase in surveillance personnel and resources, the Commission will be severely limited in its ability to detect fraud and manipulation, market abuses, firms in trouble, or other improper behavior, thereby significantly increasing the potential costs and risks to our markets and our financial system generally.

#### ENFORCEMENT

The Commission requests approximately \$70.0 million and 212 FTE for enforcement activities, an increase of \$20.7 million and 48 FTE over the fiscal year 2015 enacted level. There is nothing more important to maintaining market integrity and protecting customers than a robust enforcement program. As I noted earlier, the markets we oversee continue to grow in size and sophistication, and our challenge is that for each case the Commission initiates, there are many that we cannot investigate because of resource constraints.

Some cases can require large amounts of resources due to their inherent complexities, document-intensive nature, or the ability of resource-rich defendants to prolong litigation. A recent case that arose as a result of the Peregrine fraud, for example, lasted more than 2 years and required more than 4,800 hours of staff time. The MF Global litigation is ongoing, more than 3 years after the firm collapsed. The LIBOR and foreign exchange benchmark cases—in which, as I noted above, the Commission obtained an aggregate of over \$4 billion in penalties against several of the world's largest banks for manipulation of these benchmarks—involved intensive reconstruction of communications and trades requiring substantial document and email and chat room reviews, analysis, outside experts and reconstructing timelines.

In particular, the Commission anticipates more time-intensive and inherently complex investigations due to innovative products and practices within the industry, including the use of automated and high frequency trading, and the global nature of the swaps marketplace. We are also experiencing an increase in international enforcement investigations in all of our markets. At the same time, we must do all we can to deter unscrupulous fraudsters who target unsuspecting investors through scams, tricks and schemes.

Although the effectiveness of our enforcement efforts is best measured by the quality, breadth and effect of the cases pursued, quantitative metrics give some picture of the activity. The CFTC filed 67 new enforcement actions during fiscal year 2014. We opened more than 240 new investigations. In fiscal year 2014, the agency obtained \$3.27 billion in sanctions, including \$1.8 billion in civil monetary penalties

and more than \$1.4 billion in restitution and disgorgement. Already in fiscal year 2015, the agency has obtained \$2.5 billion in sanctions. An increase in our enforcement efforts is a good use of taxpayer dollars. We need to be able to prevent and punish abusive and fraudulent behavior, especially preventing losses to consumers whose customer funds are misappropriated, or to retirees whose savings are stolen through scams, or to our economy, when the efficiency and integrity of our markets is damaged by manipulation and fraudulent trading.

#### EXAMINATIONS

The Commission requests \$35.4 million and 135 FTE for examinations, an increase of \$6.7 million and 21 FTE over the fiscal year 2015 enacted level. Regular examinations, in concert with the Commission's surveillance and other activities, are a highly effective method to maintain market integrity so that American businesses can rely on these markets. This activity includes direct examinations performed by Commission staff and oversight of examinations performed by the self-regulatory organizations.

Among the most important examinations that the Commission conducts are those of clearinghouses, which, as noted, have become critical single points of risk in the global financial system. Two clearinghouses under the Commission's jurisdiction have been designated as systemically important by the Financial Stability Oversight Council, and the Commission is responsible for the oversight of 12 others. Five clearinghouses are located overseas, including some that are extremely important to our markets given the volume of swaps and futures cleared for U.S. persons. The Commission currently examines the two systemically important clearinghouses once a year. But the Commission lacks the resources to engage in annual examinations of other clearinghouses, and to conduct a greater number of in-depth examinations overall.

A typical examination of a systemically important clearinghouse will involve a team of professional staff for the better part of 6 months. For other clearinghouses, the team will be smaller but the time commitment will be the same. Examinations are resource-intensive, and they form a critical part of our supervisory program for clearinghouses.

The Commission is also responsible for examining other critical infrastructure in our financial markets, including 15 active exchanges, 22 swap execution facilities, and 4 swap data repositories. These examinations are an important investment in the safety and integrity of our financial and commodity markets.

Moreover, as I noted earlier, cybersecurity is a major risk to our financial system today, and therefore we must devote greater resources to this important challenge. We must also engage in regular examinations of clearing firms. Current market conditions like low interest rates and low volatility have increased the risk profiles of many of these firms. And concentration in the industry means that today only 20 firms hold \$225 billion in customer funds, or approximately 91 percent of total customer funds for the futures and cleared swaps industries. The Commission must examine whether clearing firms employ effective risk management techniques, have appropriate compliance monitoring and retain adequate levels of liquidity.

There are other entities that the Commission is responsible for examining, such as swap dealers. The recent volatility in the Swiss franc underscores the importance of examining retail foreign exchange dealers. We must be able to conduct not only annual or periodic examinations, but also other reviews triggered by unexpected incidents so that we can address the concerns of the businesses and individuals who use these markets. Without the requested level of funding, the CFTC will lack sufficient resources to conduct these examinations, which puts the markets and market participants at risk.

#### REGISTRATION AND COMPLIANCE

The Commission requests \$17.8 million and 63 FTE for registration and compliance activities, an increase of \$1million and 3 FTEs over the fiscal year 2015 level. The Commission's ability to analyze registrations in a timely and thorough manner is critical to market efficiency and confidence. The Commission's responsibilities have greatly expanded in this area with nearly two dozen SEFs and over 100 swap dealer registrants. In light of the increasing globalization of the markets and changes made in Dodd-Frank, the Commission has applications for registration from 21 foreign boards of trade. The Commission is also considering applications for registration from five derivatives clearing organizations (DCOs), and must begin to review petitions for exemption from DCO registration from several foreign clearinghouses this year. We expect to see additional applications in the future.

The Commission must also be able to respond to product and market innovation by carrying out registration reviews efficiently. A lack of adequate funding impairs the Commission's ability to attract and retain the experts who understand the markets and who are needed to review registrations and carry out compliance oversight in a timely and thoughtful manner, and can result in delay, ineffective customer protection, regulatory uncertainty, and higher legal and compliance costs for registrants—severely impacting the efficiency, integrity, and attractiveness of our markets.

#### DATA AND TECHNOLOGY

The 2016 budget request includes \$108 million for the data and technology activities, consisting of \$79 million for information technology purchases (*e.g.*, hardware, software, and contractor services), and approximately \$29 million for staffing and other indirect costs. This is an increase of approximately \$28 million from the fiscal year 2015 enacted level. Data and technology accounts for almost 40 percent of the agency's requested \$72 million budget increase.

The Commission's data and technology budget comprises several elements. We must expand our data operations and collections systems to meet our vastly expanded data collection responsibilities as well as the increasing technological complexity of our traditional markets. Data, and the ability to analyze and report data, are more important than ever in the derivatives markets and in CFTC's ability to oversee those markets; therefore, data understanding and ingestion is the priority for the Commission's resources. We currently receive over 300 million records per day, and our data needs (intake, storage) are increasing annually by 35 percent.

The Commission must be able to aggregate various types of data from multiple industry sources, such as designated contract markets (DCMs), swap execution facilities (SEFs), swap data repositories (SDRs), and derivatives clearing organizations (DCOs) across multiple markets (*e.g.*, futures, exchange-traded swaps, and off-exchange swaps). The increasing complexity, volume, and interrelations of the data set will require significantly more powerful hardware such as high performance computing systems to support business analytics.

Our infrastructure and services must also be expanded to support the growth in the agency. This includes basic computing, printing, voice, and data communications, and it requires expansion of storage, server, telecommunications, and network capacity; implementation of DHS-mandated cybersecurity measures; and a refresh of end-of-life equipment. We must also enhance our operations, platforms, and systems across all divisions. This includes legal, technology systems, and forensics support systems for enforcement as well as surveillance systems. It includes business process automation systems, public Web site operations, and management and administrative support systems.

Without the requested level of funds, the Commission will not have sufficient capabilities to fulfill the critical mandates of the agency, directly impacting the Commission's ability to protect market participants from fraud, manipulation, and abusive practices, and to protect the public and the U.S. economy from systemic risk.

#### RELATIONSHIP WITH THE NATIONAL FUTURES ASSOCIATION AND OTHER SROS

Finally, I want to note that our budget request reflects the fact that we are working with the self-regulatory organizations (SROs), including in particular the National Futures Association (NFA), so that they can take on further responsibilities, subject to our general oversight. The NFA and other SROs are a very important part of the overall regulatory framework. We work closely with them. In particular, recently, we worked very closely with the NFA when the Swiss franc was unpegged, to monitor potential problems at retail foreign exchange dealers. We are also working with them now on changes to the rules governing such firms to insure better protection of customers.

Since I took office, we have been working to have the NFA and other SROs take on additional responsibilities, including with respect to review of required filings and financial information of futures commission merchants and swap dealers, assistance with examinations, review of swap valuation disputes, and other matters. This will allow us to focus our own resources on other priorities. Of course, it is vital that the Commission still oversee the work of the SROs. That means regular engagement and review of their activities. But by having them take on greater responsibility we can insure better protection of the public interest.

#### CONCLUSION

Thank you for inviting me today. The Commission is grateful to this subcommittee for its support of the agency's work. The 2016 budget request is designed

to enable the Commission to continue making progress fulfilling its responsibilities to the American public to oversee our Nation's futures, options, and swaps markets, so that we help make sure our markets continue to thrive and contribute to economic growth into the future. I look forward to continuing to work with you on this important responsibility.

I look forward to answering any questions you may have.

Senator BOOZMAN. Thank you, Chairman Massad.

At this time, we will proceed to our questioning where each Senator will have 7 minutes per round. I expect that we will have time to accommodate at least two rounds of questioning.

Chairman Massad, according to GAO precedent, the Antideficiency Act requires that agencies ensure the cost of collective bargaining agreements be constrained by the dollar limitations of their appropriations. Both agencies, in the course of long-recognized collective bargaining agreements, cannot supersede the will of the people's elected representatives as expressed in law.

Congress retains ultimate authority over all Federal expenditures, and agencies may expend funds only in strict accordance with appropriations levels enacted by Congress.

In the past, the CFTC has made long-term budgetary and leasing decisions based on the agency's requested budget level rather than on your enacted appropriation. Given your budget request has far exceeded the appropriated amount you have received in recent years, your IG has criticized the agency for allowing hope to trump experience in long-term decisions.

I guess the question is, are you basing your negotiating position on the CFTC's current level of appropriation?

Mr. MASSAD. Yes, we are, with respect to the union, most certainly.

Let me just say that we have a great group of employees, very, very dedicated. They have chosen to be represented by a union. That is their right, and we are negotiating with them in good faith.

But we are very conscious of our budget constraints. We do wish to be competitive with our other financial regulatory agencies because, otherwise, we are at risk of losing staff to them. But we are very mindful of the budget constraints, and I talked to our employees and I raised this in the negotiations also.

Insofar as you were referring to leasing costs, I am happy to address that also. One of the first things I did when I took office was I went to visit all of our offices to look at the space and in particular in Kansas City, where the IG had noted that we had excess space.

I promptly took action to notify the landlord that we wanted to give up some of that space. We consolidated our employees so that we could do so. We notified him formally of that, and we are doing all we can. Obviously, the landlord has to agree with that.

With respect to our other offices, I have also directed the staff to look at those issues, too, to see if we could be—to use the space more efficiently. We are very conscious of being prudent stewards of the taxpayers' dollars, and we will continue to do so.

Senator BOOZMAN. Collective bargaining agreements typically comprise multiple years. What budget assumptions are you making for the CFTC's funding level in future years?

Mr. MASSAD. We are basing our negotiating strategy on what we feel we can afford today. We are not assuming that there would be

an increase. Having said that, as I say, I think it is important that we work toward making sure we are competitive with our sister agencies.

#### SEC STAFFING INCREASES AND UNOBLIGATED BALANCES

Senator BOOZMAN. Good. Thank you.

Chair White, the SEC finished fiscal year 2014 with \$74 million in unobligated balances. These unobligated balances, combined with the budget increase that Congress provided for your agency, has led the SEC to significantly increase your staffing.

As a result of the number of new hires the SEC plans to make in 2015 and other recurring obligations, your agency will require \$195 million above your current appropriation to maintain current levels of service. This represents a 13 percent increase above last year's appropriated level, quite a significant increase, just to maintain existing operations.

I guess the question, Chair White, is how is the SEC ensuring it is not hiring a number of staff that cannot be supported by its current appropriation of \$1.5 billion?

Ms. WHITE. Essentially, as you know, we had requested 639 positions, and I think we were able, by virtue of the appropriations, to hire a few over 200 employees. Some were hired mid-year or after. So, certainly, the way annualized costs work, some of those costs will obviously be greater in the next budget year. But each year we base our spending on what we are appropriated by Congress and spend it for the purposes that are specified in our budget request.

In terms of balances that the SEC has, unlike some other Federal agencies, we have what are called no-year funds, so that if we haven't spent every dollar we are appropriated by year end, we can spend it the next year. About \$20 million of those balances are actually due to de-obligating funds on completed contracts, which is very good financial management.

By having no-year funds, we are also able to hire more smartly so that if we don't have that exact, right economist that we can hire at the end of the year, we can hire them in January or February. But those amounts are taken into account with respect to the next year's request.

Depending on the level next year of our funding, we would have to make adjustments and cuts in various places in order to be able to carry out our mission most optimally.

Senator BOOZMAN. So if you had a continuing resolution, for instance, then you would have to make some cuts?

Ms. WHITE. Well, I think that would be true in any event. It wouldn't just be with respect to—in other words, we have hired the new employees we were allowed to hire under this year's budget request. We might well have to engage in a hiring freeze and cut back on IT expenses.

Clearly, every year we spend as smartly as we can our appropriation and then need to deal with whatever the next year's level of spending is—level of appropriation is.

## SEC'S LEVEL OF UNOBLIGATED BALANCES

Senator BOOZMAN. What level of unobligated balances do you foresee the SEC will have at the end of the year to spend in fiscal year 2016?

Ms. WHITE. We really can't determine that at this point. I mean, we don't really know what that will be. Obviously, it is not a goal to have the balances at the end of the year. But again, it makes for smart financial management and better hiring and spending because we are able to do that. But we certainly don't know, at this juncture, at what level they would be.

Senator BOOZMAN. Thank you.

Senator Coons.

Senator COONS. Thank you, Chairman Boozman.

First, as we come close to the fifth anniversary of the enactment of the Dodd-Frank reforms, just tell me, if you would, how has the work of your agencies most concretely contributed to improving the oversight to the markets, instilling greater investor and market user confidence?

If you put yourself in the shoes of a pensioner relying on securities income for their retirement or a farmer making financial risk management decisions before crop planting, what are the most significant, tangible benefits of the reforms enacted in the aftermath of the collapse and your actions to implement them? If you would, Chair White?

Mr. MASSAD. Happy to go.

Senator, you know, I spent 5 years at the U.S. Department of the Treasury before I came to the CFTC, overseeing the TARP program and being general counsel prior to that. And as you recall, in the fall of 2008, AIG teetered on the verge of bankruptcy due to its derivatives contracts. And the Government had to step in and provide a total of \$182 billion to save one company because its collapse at that time probably would have propelled us into another Great Depression, just given all the other things that were going on.

That was because we knew nothing about the swaps market. We didn't regulate the swaps market in any way.

Today, we have implemented four fundamental reforms. We require clearing of standardized contracts so that we can monitor and mitigate risk. We require reporting so we know a lot more about the positions of institutions, particularly the biggest players in this market. We require oversight, and we require transparent trading. So we have come a huge way.

We still have a lot to do to fine-tune all of that. But when you think about the risk that we faced in 2008—and again, \$182 billion were spent, we fortunately recovered it all—but that is 600 or 700 times, 600 or 700 times our budget. So that is how I view the benefits of Dodd-Frank.

Senator COONS. Ms. White.

## SEC'S RESPONSE TO THE FINANCIAL CRISIS

Ms. WHITE. I think it is fair to say and most financial regulators would agree with us that we are in a lot stronger shape than we were because of the actions the regulators have taken collectively



and individually. Plainly the enhancement in capital requirements and leverage requirements for banks are enormously important.

From the SEC's perspective, I think our reforms for money market funds, credit rating agencies, and public securitization markets have strengthened the markets for investors tremendously. The work that we are doing not in mandated areas, but in terms of enhancing market resiliency for investors, is enormously important. I think our real focus in enforcement and examinations on the retail investor, as well as the institutional investor, is really paying dividends.

We are also spending a lot more time and emphasis on investor education at the retail investor level. And clearly, our mutual work with respect to over-the-counter derivatives, you can't overstate the importance of that to the system and investor protection, as well as market protection.

Senator COONS. And in both instances, your agencies are charged with rulemaking, with implementing the provisions of Dodd-Frank. You have made great progress, but there is some work that remains unfinished.

Please comment, if you would, briefly on what are the barriers remaining towards completing the most important rulemaking steps, and what is coming ahead this year? What are the areas of focus for you in terms of finalizing some of these most important rules?

#### SEC PRIORITIES

Ms. WHITE. As I indicated in my oral testimony—our priority is to finalize the major remaining rulemakings under the Dodd-Frank Act and the JOBS Act. These include some in the securities-based swap area, some in the executive compensation disclosure area, and then crowdfunding under the JOBS Act.

I think we have made tremendous progress. Clearly, you want to proceed efficiently, but also effectively and smartly to approve rules that are both workable and carry out the statutory purpose. And so, those are the major areas where we are prioritizing our efforts going forward this year.

Mr. MASSAD. The agency has written most of the rules required by Dodd-Frank, but there are a couple of very important ones that remain. Margin for uncleared swaps, in particular, is one that we are very focused on right now.

And to me, that is a central part of the risk framework because there will always be a large part of the derivatives market that is not cleared, and margin is the key thing to protect against risk. And we are working very hard to harmonize those rules from the start with the prudential regulators who are also charged with this responsibility, as well as with our foreign counterparts.

In addition to finishing the rules that haven't been written, though, a major thing we are doing is looking at fine-tuning the rules that have been written. The agency worked very hard to meet the congressional deadline of writing rules basically within a year of the passage of Dodd-Frank. Now that these rules are applying to the market, we are looking at are they working? Are they doing what they are supposed to be doing?

We have made a lot of changes to the trading rules, to the reporting rules, and so forth, and we will continue to do that and also, again, to harmonize with our European counterparts. After I leave here, I am flying off to Brussels tonight for exactly that purpose.

Senator COONS. In the closing minute and a half or 2 minutes we have got, emphasize, if you would, how the budget request submitted would allow you to strengthen your regulatory oversight, your implementation of rules and cybersecurity, and give me some practical, real world consequences if you don't receive your budget request, if your budget is flat or reduced.

#### SEC FUNDING LEVELS

Ms. WHITE. I will go with that first. First I would say everything that we have prioritized in this budget request, and we really tried to be very surgical about it, would be compromised. So that includes enhancing our IT, increasing our ability to examine investment advisers, and enhancing our enforcement function, enhancing our Division of Economic and Risk Analysis even further to do better analysis. All of those areas would be compromised.

The example I would give really would be in the investment adviser space. I have talked about that before. Current levels of resources allow us only to examine 10 percent of those investment advisers a year. Even though it is 25 to 30 percent of assets under management and we do it a lot smarter, a lot better with risk-based tools as we go forward, but nevertheless, that coverage rate is a real investor protection issue of great concern.

If we were to be given our budget request this year, we could add, and we are proposing to add, 180 examiners for investment advisers, which would get us to 14 percent. It is part of a multi-year project, obviously, but enormously important. Everywhere we show up with these examiners, nearly everywhere we show up, there is value add.

For example, in the private equity space where we have just shown up to do initial exams, it has resulted in tens of millions of dollars being returned to investors as a result of our just pointing out improper allocations of fees and expenses. And that affects retail as well as institutional investors because those are pension plans that represent our police and our teachers as well.

Senator COONS. Chair Massad, if you could?

Mr. MASSAD. The key components of the increase we have asked for are data and technology—that is 40 percent of the increase—and then surveillance and enforcement. And those really reflect the changes that we have seen in the marketplace, the fact that these markets have become so much more electronic and complex.

We must make this investment if we really want to understand what is going on in these markets and be able to engage in meaningful surveillance and then follow that up with enforcement, where necessary, to prevent fraud and manipulation.

Another piece is examinations where, again, we have made clearing houses far more important in the global financial system. We have got to make sure they now don't become the new sources of excessive risk. I think we have good supervisory framework in

place, but we need to be able to examine what is going on in the clearing houses regularly.

Senator COONS. Thank you both. Thank you, Mr. Chairman.

Senator BOOZMAN. The Senator from Kansas, Mr. Moran.

Senator MORAN. Mr. Chairman, thank you very much.

Ms. White, thank you for your appearance today. I have had the opportunity to hear from you in Banking and here, and I have always appreciated the way that you have answered my questions.

And Mr. Massad, I look forward to getting better acquainted with you. Welcome to your relatively new task. We have had a long history with the CFTC, and I welcome developing a good working relationship with you.

Ms. White, let me say that I also serve on the Appropriations subcommittee that has responsibility for the Department of Labor. Your head is shaking, and you know where I am going. I—

Ms. WHITE. Anticipating.

#### SEC ASSISTANCE WITH THE DEPARTMENT OF LABOR'S FIDUCIARY DUTY RULE

Senator MORAN. Yes, ma'am. I am concerned about the redefinition of the term "fiduciary" as it relates to certain retirement plans. And based upon what I have read you have said over time, my impression is that the SEC also has concerns with the direction that the Department of Labor is going.

As the primary Federal overseer of investor protections, has the SEC been assisting the Department of Labor (DOL) in its efforts? If not, would it be accurate to say that the DOL could do harm if they don't—if they go down this path alone?

Ms. WHITE. Since the initial Department of Labor proposal—which I think was in 2010 before my arrival—the staff was working very closely in providing technical assistance to the Department of Labor. We are, at the end of the day, separate agencies with separate statutory mandates, and obviously, what their rule proposal relates to is their important Employee Retirement Income Security Act (ERISA) mandates.

So we including myself with Secretary Perez particularly, have engaged extensively in providing technical assistance. Their rule-making is now proposed, and it is out for notice and comment.

Two of the primary areas of expertise we have provided is, one, our knowledge of the broker-dealer model. The other is what possible impact various ways of defining a fiduciary duty could have on the availability of reliable, reasonably priced services to investors particularly at the low end.

#### CHAIR WHITE'S VIEWS ON A UNIFORM FIDUCIARY DUTY RULE

I have also recently—and I don't want to take all your time, but I have recently announced my own view with respect to the SEC, speaking for myself. I have studied it quite intensively since I have been here, really. My first reaction for those of you who would remember in my confirmation hearing, when I was briefed on this issue, was you have to think long and hard as a regulator before you regulate differently essentially identical conduct. And that conduct is providing personalized securities advice particularly in the retail space.

But it is a very complicated undertaking that needs to be balanced correctly. So for the SEC, we are authorized under Section 913 of the Dodd-Frank Act, to impose a uniform fiduciary duty. I think the SEC should proceed with that. I am in discussions with my fellow Commissioners about it under 913. 913 clearly has its own parameters that take into account the broker-dealer model, which I think are important to take into account.

For example, it is not a per se violation of any uniform fiduciary duty to charge a commission. And so I am proceeding in those discussions. It is not an easy task by any means.

Senator MORAN. What is the significance of what you are telling me about the SEC potentially proceeding under 913? What is the relationship then between what the Department of Labor is proposing?

Ms. WHITE. Their rule is out for comment and their authority isn't 913. 913 imposes certain parameters on the SEC's rulemaking, should we go forward, that is not imposed on the Department of Labor's.

Now one of the things that we will clearly continue to do, as we do any time with any other regulatory agency where you have overlapping issues and jurisdiction, is to continue to consult and provide technical assistance as we go forward.

#### TIMEFRAME FOR THE DEPARTMENT OF LABOR'S RULEMAKING

Senator MORAN. Sometimes—I can't think of the example, but sometimes Congress has been critical of the delay or the slowness of rulemaking. And yet in this case, the Department of Labor has 75 days appropriate for a rulemaking—my question is, is 75 days appropriate for the rulemaking that the Department of Labor is pursuing?

Ms. WHITE. This has been under study for a long time by the Department of Labor. I think 2010 is actually when their original proposal was made.

I will speak for the SEC. I mean, the notice and comment period is required by the APA, but it is also enormously useful to effective rulemaking, both in terms of achieving your regulatory objective, and also doing it in a very cost-effective way.

This is a particularly complicated area, but again, that is why their rule is out for notice and comment.

#### SEC WORK REGARDING LIQUIDITY IN FIXED INCOME MARKETS

Senator MORAN. I think I understand what you are saying.

Let me turn to another issue at the SEC. Would you walk me through what, specifically, the SEC is doing about liquidity concerns on fixed-income markets?

Ms. WHITE. That is an area clearly of interest and concern, I think, to all the financial regulators, particularly as we anticipate the rising of interest rates. So what the SEC has done in particular is, in January of 2014, our Division of Investment Management put out guidance so that funds and other market participants could look at how they are managing that risk if it occurs or when it occurs, and how to best manage that.

We along with other financial regulators as well actually report, I think we have done three reports so far, to the House Financial

Services Committee as to whether the Volcker Rule, or the anticipated compliance period to the Volcker Rule is having an impact on the corporate bond markets. That is just one example.

I think all the regulators—it is a subject discussed in FSOC as well—are looking very closely at that.

#### CYBERSECURITY ISSUES

Senator MORAN. Let me ask a general question of both of you. What is the nature of the cybersecurity issues that your agencies face? How capable are you of protecting against a cyber attack? And how secure is your data from hackers and others?

Mr. MASSAD. Thank you, Senator, for the question and thank you also for the kind words initially. I look forward to developing a good relationship with you also.

The cyber challenge is a very, very serious one, particularly with respect to the critical infrastructure like clearing houses and exchanges. We don't have the budget to do independent testing or anything like that. So we have to really think about whether we leverage our resources effectively.

One of the things we are looking at, for example, is making sure that the exchanges and the clearing houses themselves are doing adequate testing and are following best practices and are using independent testers, where appropriate, to do things like controls testing, penetration testing, vulnerability testing.

We have incorporated cyber concerns into our examinations, and typically in our examinations, what we are looking for is whether the board of directors and top management are setting the right tone with respect to these issues. Are they not only putting policies on the books, but are they making sure those policies are enforced? If an incident happens—and incidents do happen—are they not only looking at those specifics, but thinking more broadly and about what else might be vulnerable that has been revealed by this incident?

That is how we are thinking about it. But it is a real challenge given that most of the institutions we are dealing with are spending multiples of our entire budget on cybersecurity.

With respect to our own internal controls, we have done a lot in that area. We are evaluated according to the Government standards and we have received good ratings there. But we have to keep up. This is an area, as you know, where you must constantly be making new investments in order to stay apace.

#### CYBERSECURITY EFFORTS AT THE SEC

Ms. WHITE. I would say that the SEC is doing everything in its own space and then also working with fellow regulators. Again, this is a nationwide problem and priority, I would say. And it is with us for the long term. It is one of the highest risk areas I think we all face, and certainly the financial system faces.

In the SEC space, with respect to our registrants, we, last November, did a rulemaking, Regulation Systems Compliance and Integrity it is called, which essentially with respect to the critical market infrastructures—the exchanges, large ATSs, clearing agencies—for the first time, required enhancement of resiliency and in-

tegrity of their systems. And so, we think that is a very important rulemaking.

We, last March, held a roundtable with Government participants, as well as private sector participants, to make sure we brought everybody into the same room to talk about the issues, best practices, and also sort out who has the ticket for what. Because one of my concerns is that everybody is into this, but does everybody really have it covered? And who is responsible for what aspects of this?

So in our examination program, much like Chairman Massad is talking about from the CFTC point of view, we have prioritized cyber preparedness for the last 2 years in our published exam priorities. We recently published the results of a sweep that we did in that space, so that investment advisers and broker-dealers could be informed by the practices of others so that they could improve and enhance their systems.

Just last week our Investment Management Division put out guidance, again setting forth best practices, and our exams will follow suit there.

We also in the Division of Corporation Finance, I think in 2011, put out guidance to public companies about disclosing when they do have incidents that rise to a material level. But it is something that has and must have our highest focus and priority as we go forward.

Senator MORAN. Thank you both.

Senator BOOZMAN. Senator Lankford.

Senator LANKFORD. Thank you.

It is good to get a chance to visit with you all. I am the new guy on the dais, and I look forward to ongoing conversations in the days ahead as we work through these extremely complicated issues that you deal with all the time on this.

Ms. White, can I ask you—and this is not a trick question—how many rules does the SEC have? Give me a ballpark number of how many rules are sitting out there.

Ms. WHITE. You mean in total, how many do we have?

Senator LANKFORD. Yes, ma'am.

Ms. WHITE. Wow, it would probably depend on—I don't know the answer to that. I would have to give you a precise number, but there are obviously hundreds of rules, and if you do it by subdivision, it is a higher number than that.

#### SEC OUTSTANDING RULEMAKINGS UNDER THE DODD-FRANK ACT

Senator LANKFORD. Right. About how many do you think are still left for Dodd-Frank?

Ms. WHITE. Oh, from Dodd-Frank—

Senator LANKFORD. And that is separate. I was asking big picture.

Ms. WHITE. Okay.

Senator LANKFORD. Separate from that, how many are still left to do that are unfinished for Dodd-Frank at this point?

Ms. WHITE. I would say—and again, these are done by subdivisions. I look at them more in terms of buckets, but I would say that there are probably in total in the neighborhood of about 20 left to do. That is a guess. I will have to confirm it for you because there are subdivisions.

Senator LANKFORD. What are the big ones that are still left?

Ms. WHITE. Essentially, in terms of the congressional mandates, I look at it as sort of six major or eight major buckets. We are essentially finished in six of those. That includes Volcker. That includes setting up the municipal advisors regime, credit rating agencies I mentioned before, and securitization I mentioned before.

The ones that we still have work to do on are primarily finishing securities-based swap regulations and the executive compensation disclosure rules.

Senator LANKFORD. Okay.

Ms. WHITE. We have some isolated other ones, but those are the major ones.

#### SEC'S RETROSPECTIVE REVIEWS

Senator LANKFORD. Okay. I am going to come back to that in just a moment. The retrospective review, how often do you do retrospective review?

Ms. WHITE. First, we do it pursuant to the Reg Flex requirements every—really every year in terms—

Senator LANKFORD. So give me a ballpark of how many rules you are reviewing this year, number of rules.

Ms. WHITE. It is on our Web site, but I would say there are probably 50, and we actually look at it more broadly than is required under the Act. The Act really applies to impact on small businesses, but we actually tee up our rules that go out for notice and comment.

Also, and I think at least equally importantly, in the disclosure regime area, we are, for example, doing a very comprehensive review of the entire public disclosure regime now. In the market structure area for particularly equity markets, we are looking at a very comprehensive review of our regulations there, including NMS, which is obviously a baseline and very important set of rules for the National Market System. So that is an ongoing real-time review as well.

Senator LANKFORD. Okay. And the way that you select those, how do you select those that are coming up for review?

Ms. WHITE. In terms of the Reg Flex selection, some of those are made for you by the requirements, and then we add to that, as I have indicated.

With respect to the others, we prioritize areas. They should be in important areas, and they are areas which we believe call for review and change after that review.

Senator LANKFORD. What do you mean, call for review? You mean outside entities are contacting you, saying this is antiquated, or this is a problem, or this is—

Ms. WHITE. That is certainly among the inputs. Our registrants and the folks in the public companies are not shy about giving us that input, and it is very useful. We also, from our own end, supply that input as well.

#### SEC'S EXECUTIVE COMPENSATION RULEMAKING

Senator LANKFORD. Okay. Let me talk about one of the rules that you had mentioned that is still pending to be finalized, it is in that final process, and it is the compensation rule, for executive com-

pensation. Tell me the goal of that, where you think that is headed. And I understand some of the issues coming up from Dodd-Frank on it. As you are thinking through the rule itself, what is the goal? What do you think it will accomplish?

Ms. WHITE. You are talking now about the 956 rulemaking for the—

Senator LANKFORD. Yes.

Ms. WHITE [continuing]. The joint rulemaking with the other regulators? The statutory mandate there—and I think, you know—and the objective there is to try not to have incentive-based compensation create material risk to the financial system. I mean, that is the ultimate objective of that.

In terms of the status, we are currently in active work with our fellow regulators who are jointly charged with going forward with that rulemaking. There was a proposal some years ago on that, a couple of years ago. And we are working to determine what the next step is, but we are quite actively working on it now.

Senator LANKFORD. Okay. Is there a concern within SEC and the conversations that are happening internally that—that the executive compensation rule attached to stock price and stock performance could actually incentivize being more focused on shareholders than it is on employees within the business?

Ms. WHITE. I think that is a concern with all executive compensation rulemaking, and that you get that balance right and you consider both ends of the constituents. There have also been comments in that same vein that have been raised with respect to the rulemaking, the proposal we went forward with last week at the SEC, which is a disclosure rule, basically pay versus performance. So I think that has been raised there as well.

Senator LANKFORD. Okay. So how legitimate do you think that concern is?

Ms. WHITE. Again, you have to be true to the statutory requirements. That is a judgment made by Congress. And then I think what you are doing is trying to make it as effective as you can, as well as cost effective as you can, and not have negative unintended consequences from it.

Senator LANKFORD. Right. So the challenge that we face—and I understand a previous Congress put this into place. The challenge that we have now is it seems to me the goal of it is to try to shame companies into paying executives less, to publish it, to push it, to try to put it to stock prices so that at any point if stock prices begin to drop, shareholders would start punishing them and dropping salary.

The problem is, is that that I think puts a tunnel focus for any exec to say don't focus on people, focus on stock price. Lay people off, do whatever it takes to keep a good stock price, even with a falling market, because my pay is out there. And so, I think the incentive is perverse, at the end of the day.

Now I understand you are dealing with statutory mandates, but what I am trying to drive at is Congress has to reevaluate this in the days ahead as the rule comes out and as everyone looks at it, and the folks that voted for it and the folks like me that didn't, to look at it and say is this really what Congress wants to do, to incentivize execs to only look at stock prices in the days ahead?



And even with the falling market, chunk as many employees as they can because they have to guard their salary and their appearance on it.

That is the concern that I have in the days ahead, and I think this is going—it is something that we have to reevaluate in this Congress as soon as possible, as you all put forward what a previous Congress has said to do.

Ms. WHITE. Understood. Those rules will be put out for notice and comment. So I just want you to know that opportunity will be there, is all I am saying.

Senator LANKFORD. Now, Mr. Massad, I don't want you to get off too easily on this. But let me just take one quick question, and it is small. You all have had some difficulties dealing with unused space that has been leased. So, what is the current vacancy rate for the Kansas City office? How are you doing with vacant space, and what is the status on that?

Mr. MASSAD. On Kansas City, shortly after I took office, about 2 or 3 weeks after, I went out there to look at the space. And we promptly moved to consolidate our space on one floor and notify the landlord we are willing to give up the excess space. We are hoping that he will accept that offer.

With that, I would need to check on exactly what our Kansas City occupancy rate would be, but it is very high, assuming he will agree to some sort of deal to take back the space. We would like to do that.

Senator LANKFORD. Sure. CFTC is not alone, obviously, in having unused Federal space. We have it all over the country at this point, but it is one of those areas of many that we have to be aggressive on to say where we have empty square footage, we need to make sure that we are not paying for it with the Federal tax dollars. And so, I appreciate your aggressive oversight of that.

Mr. MASSAD. Agreed.

Senator LANKFORD. That is one of a million things I know you have to deal with, especially walking into this inheriting the issue.

Mr. MASSAD. Yes, and we don't—as you know, Senator, we don't get the money even if—you know, we don't get the savings necessarily, but it still makes sense.

Senator LANKFORD. Right. \$480 billion in deficit this year, the Federal taxpayer would appreciate it very much on that oversight.

With that, I yield back.

Senator BOOZMAN. Chairman Massad, over the past year, the CFTC has taken some incremental steps to reduce the burden of recordkeeping requirements with Rule 1.35. Can you talk a little bit about what steps you are trying to take to ensure that the American farmers and manufacturers are not overburdened by regulations and compliance costs, and then also you might talk a little bit about what has changed in the last few years as far as what you are regulating?

Mr. MASSAD. Certainly, Senator, happy to answer that. Yes, we have proposed changes to Regulation 1.35, which concerns the recordkeeping that participants in our markets must do. And particularly because of the potential impact on smaller users in these markets, we have proposed a change. We have received a lot of com-

ments on that, and we are looking at the issue and hope to finalize the rule soon.

Also related to that, last week we took another step with respect to trade options, perhaps less important for the agricultural community, but very important in the energy community, where we are proposing to get rid of a form that is required and reduce the reporting burden on trade options.

I think it is very critical that we look at our rules, again, to make sure that commercial firms who rely on these markets, whether they are in agriculture or other industries, can do so efficiently and effectively, and particularly the smaller firms. You know, the rule-making we are doing with respect to the swaps market was not meant to burden them. It was meant to address the risk of excessive risk and to oversee the big players in the market.

Senator BOOZMAN. Good. No, I appreciate your affirming that. I know that that certainly was the intent, and yet sometimes the smaller players have gotten caught up in this stuff. So we really do appreciate your efforts to unwind that.

#### SEC GUIDELINES FOR ADMINISTRATIVE PROCEEDINGS

Chair White, after Dodd-Frank expanded the SEC's authority to try civil enforcement cases through administrative proceedings, the SEC has been bringing more cases to its administrative law judges, rather than going to Federal district court. I think it is important for the investment community to believe there is fairness and transparency in all judicial venues.

Does the SEC intend to develop and make public guidelines for determining which cases are brought in administrative proceedings and which cases will be brought to Federal court? Will the full Commission participate in that drafting process?

Ms. WHITE. As you correctly point out, Dodd-Frank did expand the penalties that we can achieve in administrative proceedings. That forum has been around for many, many years. I think the SEC has used it since the 1940s, actually.

Questions have been raised about the choices. Of the litigated cases, I think 57 percent are still in district court, not in administrative proceedings (APs). But questions have been raised about those criteria, and I do believe appearance of fairness is important. And so, one of the things that we are—I am considering is whether we should do public guidelines to make that clear and transparent to both participants and the public.

Senator BOOZMAN. So are you considering it along with the other Commissioners?

Ms. WHITE. I am one vote, as they say, at the end of the day. Obviously, there are things that can be done by the staff as opposed to the Commission. I mentioned staff guidance in a couple of other areas already today.

I will say that I think all of the Commissioners are focused on this, and so we are always engaging in dialog, even if, what at the end of the day—assuming something comes out at the end of the day—is staff guidance. So there is a lot of discussion.

Senator BOOZMAN. Okay. No, I think it is important.

## FINANCIAL STABILITY BOARD ROLE IN MARKET REGULATION

For both of you all, last month a member of the European Parliament argued at a swaps and derivatives conference that the best way to achieve international consistency of regulations would be to give the Financial Stability Board a standard-setting role, with national regulators expected to accept and implement its rules. Although the Financial Stability Board's roots are in central banking and prudential regulation, they are moving forward with regulating the insurance industry and asset management industry.

Do you have concerns with giving bank-centric regulators a more detailed role in the market's regulation?

Ms. WHITE. The SEC is a member of the Financial Stability Board (FSB). I think the FSB is enormously important to bringing international regulators together to assess risks, among other things. But I also think the work of the FSB, including reports and suggestions for standards, are not binding on the national authority, and certainly not binding on the SEC.

And it is clear, in the FSB setting, that predominantly they are central bankers who are the members. There are a few of us who are capital markets regulators, with very important expertise to bring to bear. But at the end of the day, in terms of, certainly, the capital markets that we oversee and have jurisdiction to regulate, we continue to do that. And the FSB reports are not binding on us.

Senator BOOZMAN. Chairman Massad?

Mr. MASSAD. I would agree with what Chair White said and just add we are not even a member. I don't even get to go to the meeting. So I would agree with you that it is a little bank-centric.

You know, having said that, it is a forum for bringing people together. I think the way I look at the task of trying to harmonize our rules is it just requires a lot of effort on the part of the individual regulators to get together. And that is what I have been focused on doing since I took the job.

There are going to be some differences in the rules. There are differences in most areas of regulation between different countries' rules, but I think we have made a lot of progress with respect to over-the-counter derivatives, and we will make some more.

As I said, I am flying off to Brussels tonight for this very purpose. We have made a lot of progress on a number of areas, and I think we will make more progress.

## INFLUENCE OF INTERNATIONAL REGULATORY ORGANIZATIONS

Senator BOOZMAN. No, and that is appreciated. I think there is a concern that perhaps international regulatory organizations are trying to exert inappropriate influence on the development of our regulatory policy.

And finally, do you think we are underrepresented in that regard?

Mr. MASSAD. Well, I have asked to be invited to the meeting. So, yes, I would agree with that comment.

Senator BOOZMAN. But you agree, you know—

Mr. MASSAD. No, but I do have a good personal relationship with Governor Carney. I think it would help in some of these—in the

FSB in particular to have more market regulators if it is going to look at things like over-the-counter derivatives.

Senator BOOZMAN. Sure.

Ms. WHITE. I guess I would just add that also there are a number of work streams, a number of committees at the FSB that the SEC staff and the CFTC staff participate in, and bring that perspective to bear. And there is certainly in recent months, I believe we can call it a consensus on the part of FSB members, that more of that capital market expertise ought to be brought to bear in those working groups and committees, which, I think, is a good thing.

Senator BOOZMAN. Very good.

Senator Coons.

#### HARMONIZATION OF RULES ACROSS BORDERS

Senator COONS. Thank you, Chairman Boozman.

Let me just continue the discussion along this direction. I was broadly encouraged by the reforms presented in Title VII, but I am concerned about how they are being implemented and the reluctance on the part of some of our European counterparts to accept U.S. clearing houses for trades and the reports of some friction between U.S. and European regulators.

So I know you have been working with your European counterparts to try and find some common ground on a range of issues. As you fly off to Brussels, as you contemplate further actions, just talk to us in a little more detail about the efforts underway to harmonize the rules across borders to reduce uncertainty for market participants and what you see as the prospects for real progress and harmonization between your organizations and between our countries—our country and the countries of Europe?

Mr. MASSAD. Sure. I think it is important to look at it area by area. A big issue, obviously, that has received some attention is clearing house recognition. And you know, we have, I believe, the strongest regulatory framework for clearing houses in the world. I think there is ample basis for the Europeans to declare us equivalent and recognize us.

They have had a couple of types of issues. One was with what they referred to as deference more to their regulations with respect to the regulation of their clearing houses, meaning that, we do require, in fairly narrow circumstances, for European clearing houses that clear futures traded in this country or swaps to register with us.

And they ask that to the extent that we can, we harmonize our regulations with theirs with respect to those clearing houses. We proposed a framework that is acceptable, and assuming we can work out our other differences, I think we will address that issue.

The other issue they have raised is—pertains to margin methodologies. Again, we have done a lot of analysis, and I feel our standards are more than adequate and in some ways superior. We will try to work that out.

In other areas, we are making progress. Margin for uncleared swaps, I referred to earlier. There has been a very good international dialogue on this, where, hopefully, we can get these rules

that are being worked on currently—by us, by Europe, by Japan, to be fairly similar.

There has been a lot of work in the area of swap data reporting. We have a number of different trade repositories for this data, and it is important that we collect the data in similar ways. It is a very big effort, but a lot of progress has been made there.

So I think we are making progress. It takes time, but it is a task that I am very committed to.

Ms. WHITE. It is essential. And particularly in this space it is obviously a global market. I mean uniquely global. In the swaps area, we have about 5 percent of that market, but we are also talking to the Europeans about it and coordinating there.

You are trying to both have as much consistency as you can for market participants, but also avoid regulatory arbitrage. And so, I think the discussions are quite constructive, but again, they are not all easy issues.

#### INSPECTIONS AND EXAMINATIONS

Senator COONS. Talk for a minute more, if you would, about examinations and inspections. Both of you in the section of your spoken and in your written testimony emphasized that continued increase in your budget would allow for a continued increase in examination and inspection. You mentioned only 10 percent of the underlying regulated entities are annually examined.

What would be the consequences for the market, what would be the benefits for investors were there to be more regular, more predictable examinations of a broader range or more regular inspections?

Ms. WHITE. The 10 percent, by the way, applies to investment advisers. Coverage is about 50 percent of broker-dealers and higher percentages for other kinds of registrants, just based on resource availability. More resource raises the entire bar of compliance. It translates directly into investor protection, or the lack thereof, if we don't have the resources to have what is referred to as "boots on the ground."

I think I mentioned earlier the example of just by showing up, with respect to some new registrants, it has resulted in tens of millions of dollars going back to investors. If we are not present, including at the lowest levels of the retail markets, the smallest investment advisers, any massive fraud can be occurring there.

And if the number of advisers increases—and there is some discussion that this is the case—as broker-dealers migrate to the investment adviser area because we are less present there because of resources, you are lowering the investor protection. It is quite, quite serious.

Mr. MASSAD. Similarly for us, we have about 14 clearing houses, about the same number of exchanges. We have a number of clearing members, but about 20 of them hold most of the funds. The total funds held by clearing members is about \$250 billion.

So we simply can't get in and examine these entities on a regular basis. We don't even get to many of the clearing houses and the exchanges once a year. We get to very few of them, and that is a big problem.

These clearing houses, as I said, we have made far more important in the global system. That is a good thing. That was a wise choice. But we have got to be able to see what is going on and to be in there and looking at the holding of customer money, look at the procedures they follow, look at cyber issues, look at other issues.

The same is true with the clearing members. We don't, you know, want to be in a position where we don't know what is going on. We are trying to work with whoever we can who can assist us in this regard. We work with the National Futures Association. We work with the Fed, in part, on clearing house oversight. But there is a lot more we need to be doing.

#### INVESTMENTS IN IT AND CYBERSECURITY

Senator COONS. In your written testimony, you referenced, Chairman Massad, that cybersecurity is the single most important threat to financial security today—and financial stability of the markets today. And in your spoken testimony, you also emphasized the increasing scale of complexity and the automation of a lot of the transactions, the electronic nature of a lot of the transactions you are charged with overseeing.

Speak in closing, both of you, if you would, briefly to the resources and expertise that you need in order to keep up. You referenced that each of the four largest financial institutions dwarfs your annual budget with their annual investments in IT and cybersecurity alone. Just speak to how having the resources to continue to invest and keep up would make a difference in financial stability and your ability to oversee the markets.

Mr. MASSAD. Certainly. It is a critical area. And you know, this is always going to be a joint effort. We are never going to be able to do all of this by ourselves. It is important that we work with other regulators. If there is an incident, obviously, we would work with, you know, the FBI and Homeland Security and so forth.

But we need the resources to be able to go in regularly and do examinations and make sure that the critical infrastructure and these most important participants in the market are doing enough themselves in terms of testing, in terms of procedures, in terms of setting a tone, in terms of the attention of the board of directors. We simply cannot address this risk with the budget that we have.

And these threats, as we now know today, don't just come from people motivated by profit. They come from people, you know, looking to disrupt the system.

Ms. WHITE. I would concur with everything that Chairman Massad said. I think in terms of resources, I mentioned before, I am very pleased to get the systems compliance and integrity rule-making done to enhance resiliency of the critical market infrastructures of the exchanges and so forth, but one has to be able to examine and make sure the rules are being observed or you might as well not have those rules. Again, it comes back to the examination resources and challenges we have in that space for examinations.

I mentioned that our national exam staff has, for a couple of years, prioritized cyber preparedness when they go out and examine investment advisers and broker-dealers. But, you know, that is one presence. It is not nearly enough resources to actually have a

strong enough and broad enough presence on those issues. And again, no one can overstate the seriousness of that risk and challenge that comes from cyber.

Senator COONS. I think this remains a particularly important area for us to focus on, for us to invest in. I share the concerns phrased by Senator Moran about fixed-income liquidity. I think we have discussed that before.

And as I have mentioned to you before, I remain quite interested in the implementation of the conflict minerals rules, and I will submit some questions for the record. I hope you will keep us updated on how those reports and implementations are going.

There was a recent report by Amnesty International and Global Witness that suggested while some corporations have really stepped up and advanced the concern in the cause of transparency in the minerals markets, many others have not. A majority have not. So I will submit a question for the record.

Thank you very much, Mr. Chairman.

#### COLLABORATION ON CYBERSECURITY

Senator BOOZMAN. Thank you, Senator Coons.

Do you have any other questions? Good.

Let me just ask you about cybersecurity in the sense that I think we all agree how important it is. That really is a new frontier.

Both of you, in different ways and yet in the same way, have to deal with that through oversight, having the IT in place, and the infrastructure in place so that you can monitor others. And then you have to deal with your own security.

Is there any effort on collaboration? I mean, you are different, but you are similar, and we have so many other agencies that are also similar. It does make sense. We have limited resources, and I think all of us would agree with that, regardless of where we are at.

Can you talk a little—

Ms. WHITE. Yes. The collaboration does occur pretty extensively. The Financial and Banking Information Infrastructure Committee (FBIIC) under Treasury's auspices brings together all of the financial regulators precisely to focus on cyber issues including at literally the principal level once a quarter, and our staffs are meeting more often than that. Again, it goes back to my concern that you do need to get all the relevant people in the room talking to each other.

So there is certainly good efforts, good forums for that occurring, but we also are sharing with each other our various approaches to the cyber issues.

Senator BOOZMAN. It does seem, Chairman Massad, that, you know, with limited dollars and the functions that are in common, it does seem like we could have some sort of a team approach to use those dollars to build out each other's infrastructure.

Mr. MASSAD. Absolutely, Senator. We do collaborate. FBIIC is one way. Chair White and I discuss a lot of issues just bilaterally. There are other forums for industry and Government to work together sharing information.

But it comes back to something fairly simple in terms of examinations. If we don't even have the resources to go and examine a

clearing house on cyber at least once a year, there is no way we are going to know what is going on.

So all the collaboration among agencies in the world isn't sufficient. We still have to be able to have the resources, because we are the regulator in charge of certain clearing houses, certain exchanges, certain clearing members. We have to have the ability to go in and examine.

Senator BOOZMAN. No, I don't disagree with that. And yet the information that comes in, as you sort that out using the various components, both of you all have the same problem.

And it does seem like, again, I think we are all saying the same thing about collaboration in that regard and building out that infrastructure. You have got a budget. Chair White has a budget. It does seem like we could do a better job. That is just something at which Government historically has just not done a very good job—not very efficient at all.

Mr. MASSAD. No, I would agree, but, you know, one of the things we are doing, for example, I refer—I mentioned the fact that we are thinking about standards on testing. We are looking at the SEC's rules. We are talking actively with their staff as we think about what to do, learning from what they have done, the same with other agencies as well. So there is a lot of dialogue going on among Federal regulators on this.

Ms. WHITE. Part of this, if I may just add, is that, I think maybe it has been alluded to, but it is really getting the word out to the private sector, to not only working together with them very closely on information sharing, but when we are actually, by virtue of what we can do by way of examination, learning things about best practices in an appropriate way, publicizing that so that the firms can bring up their own bar, so to speak.

Senator BOOZMAN. Well, thank you all so much for being here, and the testimony was very helpful in helping us craft the fiscal year 2016 bill.

I also want to thank your staffs for working very hard to prepare you and our staffs for doing the same thing and doing an excellent job of getting us all of this together so that we could have a good hearing.

#### ADDITIONAL COMMITTEE QUESTIONS

If there are no further questions, the hearing record will remain open until next Tuesday, May 12th at noon for subcommittee members to submit any statements or questions to the witnesses for the record.

[The following questions were not asked at the hearing, but were submitted to the Commissions for response subsequent to the hearing:]

#### QUESTIONS SUBMITTED TO HON. MARY JO WHITE

#### QUESTION SUBMITTED BY SENATOR JOHN BOOZMAN

*Question.* Chair White, unlike our other agencies, the SEC enjoys the benefit of the Dodd-Frank created Reserve Fund, which has been used to fund large, multi-year technology projects. This year, Congress did not receive a spend plan on Reserve Fund expenditures until more than halfway through the fiscal year. Next year, your agency plans to plans to spend \$75 million from the fund.



What process does the SEC use to determine what projects will be funded through the Reserve Fund rather than through appropriated funds?

Does the SEC intend to continue using the Reserve Fund for technology projects in fiscal year 2016 or will the Commission use the fund for other expenditures?

Will projects that are initiated through Reserve Fund expenditures continue to be funded solely by the Reserve Fund or will the SEC's appropriation be used to maintain the project in future years?

Answer. The SEC has dedicated the Reserve Fund to large, multi-year, mission-critical information technology projects and programs. The Office of Information Technology, in collaboration with the Chair's office and other divisions and offices, develops and proposes the suite of projects and programs that best use the resources of the Reserve Fund, in conjunction with the Office of the Chief Operating Officer and the Office of Financial Management. The approved projects include:

- Improved data analytics to support the SEC's efforts to identify potential securities law violations and inform policymaking;
- EDGAR enhancements to improve the functioning of the Commission's large filing repository for the public and the agency;
- An EDGAR redesign to create a system that is easier for registrants to access and use to submit required information and that serves as a more robust source of data for the SEC and the investing public;
- Bolstering systems that support enforcement investigations and litigation and SEC examinations;
- Enhancing the sec.gov website to provide the public with better access to information in a cost-effective manner;
- Improving the tips, complaints, and referrals system through additional functionality, such as automated triaging; and
- Business process improvements to make the day-to-day operation of the SEC more efficient.

In fiscal year 2016, the SEC intends to continue dedicating the Reserve Fund to investments in such large, multi-year, mission-critical technology projects and programs. As in the past, the SEC intends to use the Reserve Fund for development, modernization, and/or enhancement of such systems, not their maintenance. Once a new system or system enhancement is deployed, the ongoing maintenance costs are covered from the General Fund.

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#### QUESTIONS SUBMITTED BY SENATOR CHRISTOPHER A. COONS

*Question.* What is the state of international cooperation in achieving the goals of the G20 commitments to reform global financial markets? In particular, some have posited that where there are nuanced differences in local regulatory implementation, there is a risk of market fragmentation along regional borders. Do you agree with this assessment? Why or why not?

Answer. Because global markets are subject to the risk of fragmentation, international regulators are very focused on regulatory inconsistencies and possible arbitrage. Commission staff participates in a variety of multilateral initiatives and bilateral discussions aimed at helping to ensure that reforms across jurisdictions fit together in a sensible way. For example, this coordination is necessary as reforms for the over-the-counter derivatives markets, which are highly global, are implemented across jurisdictions where a significant portion of transactions could be subjected to multiple regulatory regimes. The staff participates in the Financial Stability Board's (FSB) Over-the-Counter Derivatives Working Group, which is comprised of staff of regulatory and supervisory authorities responsible for implementing reforms in the over-the-counter derivatives markets. Since October 2010, the Working Group has reported regularly to the FSB on progress in implementing over-the-counter derivatives reforms, including two reports in 2014. These progress reports published by the FSB include updates on international, national and regional progress in finalizing standards and implementing reforms, as well as practical reviews of identified implementation issues. In addition, senior representatives from the Commission, the Commodity Futures Trading Commission and foreign authorities convene regularly in the Over-the-Counter Derivatives Regulators Group to discuss cross-border issues related to the implementation of reforms for the over-the-counter derivatives markets in their respective jurisdictions. Beyond this, the SEC is a member of the International Organization of Securities Commissions (IOSCO), a multilateral organization of securities regulators focused in part on cooperating in developing, implementing and promoting adherence to internationally recognized and consistent standards of regulation, oversight, and enforcement.

I personally participate on the FSB Steering Committee and IOSCO Board to address these same types of concerns and priorities.

*Question.* Corporations have a right to utilize their earnings in a variety of ways. For example, firms can repurchase stocks, issue dividends, increase R&D spending, invest in innovation, train workers, or spend money on other priorities. Some commentators have suggested that large amounts of corporate earnings are going toward buybacks and dividends, rather than some of the other investments outlined above. Is this a trend that you see and, if so, is it something you are concerned about?

*Answer.* The SEC's mission is to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation. Consistent with that mission, the SEC does not generally seek to regulate how a company uses its available resources. The SEC does, however, seek to protect investors that own or may wish to buy or sell the issuer's securities by ensuring that investors have the information they need about the company and its activities, and by requiring that companies that engage in buybacks or issue dividends do not engage in deceptive or manipulative conduct.

With respect to disclosure, issuers must disclose in their quarterly and annual reports all issuer and "affiliated purchaser" purchases of shares or other units of any class of the issuer's equity securities that is registered under Section 12 of the Exchange Act, regardless of the manner of purchase (*e.g.*, whether the purchases were made in open-market transactions, tender offers, in satisfaction of the company's obligations upon exercise of outstanding put options issued by the company, or other transactions). This information about the number and amount of purchases is disclosed in tabular format by month. For all plans or programs publicly announced, the issuer must provide additional details about the plan or program, including information about when the program was announced, the amount to be repurchased, and the expiration of the program. In addition, reporting issuers are required to disclose the number of shares purchased other than through a publicly announced plan or program and the nature of the transaction. Generally, issuers that publicly announce a buyback program file a current report on Form 8-K.

Similarly, issuers listed on national securities exchanges are required to report upcoming dividends to a self-regulatory organization to ensure that all investors receive such information in a fair and timely manner. Item 201(c) of Regulation S-K requires issuers to disclose the frequency and amount of any cash dividends that are declared by the issuer in annual reports that are filed with the Commission.

The Commission also vigorously pursues cases of market manipulation, whether executed through buybacks or otherwise. In particular, the Commission often brings enforcement actions alleging violations of Section 10(b) of the Securities Exchange Act and Rule 10b-5 thereunder to address conduct intended to manipulate common stock prices. For example, the Commission actively pursues "pump and dump" cases in which the issuer either itself or indirectly through others touts its common stock through false and misleading statements to the market place.<sup>1</sup>

*Question.* Section 1502 of Dodd-Frank directed the SEC to impose additional disclosure requirements on issuers that use tin, tantalum, tungsten, and gold (so-called "conflict minerals") from the Democratic Republic of Congo (DRC) and adjoining countries. The DRC is an important source of minerals that are essential for electronic devices, such as smartphones and laptops. For over 15 years armed groups in eastern DRC have preyed on the mining sector to finance their operations with devastating impact, committing gross human rights abuses in the process.

The Dodd-Frank directive aimed to establish transparency and accountability in mineral supply chains to ensure that companies do not source their minerals from the region, and thus fund the conflict. SEC issued final rules on August 22, 2012. Companies were required to file their first specialized disclosure report on May 31, 2014 (for the 2013 calendar year) and annually on May 31 every year thereafter.

Global Witness and Amnesty International recently published an analysis of how well corporations are adhering to the disclosure requirements based on SEC filings. The report's key findings indicated that:

—79 of the 100 companies analyzed failed to meet the minimum requirements of the U.S. conflict minerals law.

<sup>1</sup> See, *e.g.*, *SEC v. Pagnano, et al.*, Civil Action No. 14-CV-7691 (VM) (S.D.N.Y.) (filed Sept. 23, 2014); *SEC v. Benou, et al.*, Civil Action No. 14-CV-7284 (PGS) (D.N.J.) (filed Nov. 21, 2014); *SEC v. Zenergy Int'l, Inc., et al.*, Civil Action No. 13-CV-5511 (JBG) (N.D. Ill.) (filed Aug. 1, 2013); *SEC v. Spongetech Delivery Systems, Inc., et al.*, Civil Action No. 10-CV-2031 (DLI) (E.D.N.Y.) (filed May 5, 2010). See also the lists of SEC enforcement actions, including market manipulations, which are published annually, including the fiscal year 2014 list available at <http://www.sec.gov/about/secstats2014.pdf>.

- Most companies in the sample are not doing enough to map out the supply chain of the minerals they purchase. Only 16 percent go beyond their direct suppliers to contact, or attempt to contact, the smelters or refiners that process the minerals.
- More than half of companies sampled do not even report to senior management when they identify a risk in their supply chain.
- The fact that one in five surveyed companies did comply with the law’s requirements dismantles the argument that implementation is too difficult and too expensive for companies failing to properly investigate their supply chains.

What efforts are currently underway or planned (and on what timetable) by the SEC to address deficiencies in corporate compliance with the required disclosures under Section 1502?

Answer. As you know, there is ongoing litigation regarding the First Amendment implications of a portion of the disclosure required by the rule. I am mindful that the Commission and registrants are awaiting the court’s final decision on the rule-making, and registrants are preparing their Form SD filings using the interim staff guidance issued on April 29, 2014, subject to further action taken either by the Commission or a court. Until the litigation is resolved, companies have not been required to have an Independent Private Sector Audit of their conflict mineral reports, which we expect to improve compliance.

Since the rule’s adoption, the staff has issued interpretive guidance in response to a number of questions and will continue to consider the need to provide further interpretive guidance, as appropriate. In addition, Commission staff selected a sample of approximately 70 Forms SD filed in 2014 for calendar year 2013 to assess compliance with the disclosure requirements established by the form and the new rule. In that review, while registrants generally appeared to be complying with the form and rule requirements, the staff observed some items where it believed registrants could improve in their subsequent filings. The staff conveyed its observations for improvements at various conferences and speaking engagements.

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#### QUESTIONS SUBMITTED BY SENATOR JERRY MORAN

##### FIDUCIARY DUTY

*Question.* Chair White, during your appearance before the subcommittee, you indicated that the SEC has provided technical assistance to the Department of Labor on their proposed rule to change the definition of fiduciary investment advice under ERISA. You indicated that the SEC’s assistance primarily focused on your knowledge of the broker dealer model and the way in which the definition of a fiduciary duty could impact the availability of reasonably-priced services to lower-income investors. Can you please elaborate on how changes to the fiduciary duty could impact lower-income investors?

Answer. Commission staff has provided DOL staff with technical assistance and expertise on our regulatory regime as DOL developed their re-proposal. As part of these discussions, Commission staff shared their experiences with how services are provided in this area of the market and the potential economic and market impacts that policy changes the DOL was considering could have on SEC registrants and retail investors.

It is important to achieve the right balance in addressing these issues, while making sure investors, particularly retail investors, are appropriately protected and have access to the type of investment advice and services they need and can afford. I believe that ongoing analysis of potential impacts is required to achieve this balance and to identify possible costs. The DOL has completed the first phase of its comment process and will soon hold a public hearing in an effort to fully understand the potential practical effects of any rulemaking.

##### NMS PLAN CONSTRUCT

*Question.* Chair White, I am hearing concerns that the SEC has frequently addressed critical market structure issues by delegating its responsibility to regulate our markets to the exchanges, which, as you know, are for-profit entities that have a fiduciary obligation to maximize profitability. As both regulator and market participant, they may often find themselves competing alongside those they regulate.

I understand that the exchanges have addressed market structure initiatives under a conflicted governance structure that largely excludes meaningful input from affected market participants such as the broker-dealer community. The SEC has used this delegated authority, otherwise known as an NMS Plan construct, in a number of key areas, including the Consolidated Audit Trail and the Tick Size Pilot.

In addition, the operation of the public market data feeds, or SIPs, has also been delegated to the SROs and their governance structure. I understand that the SEC may in part be delegating these responsibilities to protect their resources. It seems to me that this provides all the more reason to improve the Operating Committee structure, include additional market participants in the planning, development, and operation of these NMS plans, and collectively benefit from the most efficient and resilient regulatory regimes possible. Kansas based BATS Exchange has suggested that the governance structure be amended to include voting representation by the asset management and broker-dealer communities.

With that background, do you agree that the current governance structure appears incomplete and will you consider amending the existing NMS Plans to improve their governance structure while including the broker-dealer and asset-management industries in the Operating Committees, as others have suggested? Do you have the required legal authority to accomplish this reform with congressional involvement or is a statutory modification necessary?

Answer. The SROs, which are subject to Commission oversight, participate in joint NMS Plans in connection with the planning, development, operation, and regulation of the national market system. The governance of the NMS Plans occurs through their Operating Committees, which are comprised of representatives of the member SROs.

The Commission has rulemaking authority under Section 11A of the Securities Exchange Act of 1934 to facilitate the establishment of a national market system for securities and has relied on that authority to establish rules governing NMS Plans. In that regard, the Commission in 2005 required certain NMS Plans to establish non-voting advisory committees in an effort to improve NMS Plan transparency and broaden participation in NMS Plan governance. Advisory committees have served a useful role in the administration of NMS Plans. Members of an advisory committee have the right to submit their views to the Operating Committee on Plan matters, including any new or modified product, fee, contract, or pilot program. Members also have the right to attend all Operating Committee meetings and to receive any information distributed to the Operating Committee relating to Plan matters, except when the Operating Committee, by majority vote, decides to meet in executive session after determining that an item of Plan business requires confidential treatment.

When the SROs implement Commission initiatives, such as the requirements for a Consolidated Audit Trail or the Tick Size Pilot, they are done pursuant to SRO actions subject to Commission review and approval. The implementation and operation of the initiatives themselves is closely overseen by Commission staff.

As part of its undertaking to do a comprehensive review of equity market structure, the Commission recently established the Equity Market Structure Advisory Committee with the objective of providing the Commission with a diversity of views on the structure and operations of the equity markets. The role of SROs in today's markets covers a variety of issues that both the staff and the committee will be considering.

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QUESTION SUBMITTED TO HON. TIMOTHY G. MASSAD

QUESTION SUBMITTED BY SENATOR CHRISTOPHER A. COONS

*Question.* What is the state of international cooperation in achieving the goals of the G20 commitments to reform global financial markets? In particular, some have posited that where there are nuanced differences in local regulatory implementation, there is a risk of market fragmentation along regional borders. Do you agree with this assessment? Why or why not?

Answer. Substantial progress has been made and a variety of efforts are currently taking place. As Chairman, I have made several trips to Europe and Asia and I meet frequently with my counterparts at foreign regulatory agencies, as well as through formal and informal international organizations, to further the work of harmonizing derivatives regulations as much as possible. It is important to keep in mind the scale of the challenge and the unique circumstances in which the swaps market evolved. In all areas of financial regulation, there are significant differences between the laws of different nations. What is unusual about the derivatives market is that it grew to a global scale without any meaningful regulation. Now, in seeking to regulate it, there will inevitably be differences between national rules and requirements. While the G-20 nations agreed to basic reform principles, individual nations must adopt rules and requirements and these will vary given each jurisdiction's own legal traditions, regulatory philosophy, political process, and market con-

cerns. The challenge is to achieve as consistent a framework as possible while recognizing that our responsibility as national regulators is first and foremost to faithfully implement and enforce our own nation's laws.

In each of the four major areas of swaps regulation required under Dodd-Frank—oversight of swap dealers, central clearing, trading of swaps and reporting—the U.S. is leading the way both in terms of implementing the legislative mandates (which reflect the G-20 commitments) as well as in the efforts to achieve international coordination. Other nations are not as far along. That poses challenges in achieving coordination.

*Oversight of Swap Dealers.*—Central to our harmonization efforts is the Commission's substituted compliance program. Under this approach, market participants may comply with foreign rules in lieu of compliance with the Commission's rules where the foreign jurisdiction's requirements and oversight are comparable and comprehensive compared to corresponding requirements under the Commodity Exchange Act and Commission regulations. To date, we have issued comparability determinations with respect to the key swap dealer rules of six jurisdictions—the European Union, Japan, Australia, Hong Kong, Switzerland, and Canada. To our knowledge neither the European Union nor any other jurisdiction has taken similar action. We will continue to look at other jurisdictions' rules as those are finalized.

Another aspect of oversight of swap dealers on which we are making good progress is with regard to proposed rules on margin for un-cleared swaps. The Commission, together with the U.S. bank regulators, has played an active role in encouraging international harmonization and coordination of margin rules. The Commission's proposed margin rules are consistent with the standards in the final international framework, and we are in regular communication with regulators in the EU and Japan as we and they finalize our respective rules.

*Clearing.*—Another important area that has been a high priority under my tenure is central clearinghouse recognition and regulation. As you may know, the Europeans have not yet recognized our central clearinghouses as equivalent. We believe there is—and has been—ample basis for them to do so. However, they have raised various issues, which we continue to discuss, and I am hopeful that we can resolve this issue soon.

We are also in dialog with European regulators to coordinate, where possible, clearing mandates. Europe has not yet acted but we will seek to work with them where possible. We have also helped to lead efforts to implement international principles on regulation of clearinghouses, known as the Principles for Financial Market Infrastructures. We revised our regulations to be consistent with those principles. In addition, we are currently co-chairing an international effort to develop standards for stress testing of clearinghouses and for clearinghouse recovery plans.

*Trading.*—In the area of trading, most jurisdictions, including the European Union, have not implemented rules regarding mandatory trading of OTC swaps. This makes it a challenge to harmonize. Nevertheless, we are working with various jurisdictions to do all we can in this area.

For example, we have taken action to permit U.S. persons to trade on foreign trading platforms even if those platforms do not register with us, as exemplified by a recent no action letter we issued for an Australian trading platform. See CFTC No-Action Letter 14-117, which was superseded by No-Action Letter 15-29 on May 15, 2015.

Additionally, the CFTC has developed registration requirements and procedures for Foreign Boards of Trade (FBOTs) that wish to provide their members and other participants in the United States with direct access, *i.e.*, the ability to enter trades directly into the trade matching system of the FBOT. The Commission has issued a series of no action letters in this regard and has adopted formal registration rules that can replace the process of issuing staff no-action letters. The Commission currently has 22 applications for registration pending, 15 of which were permitted to engage in trading by direct access pursuant to no-action relief and can continue to do so until the Commission approves or disapproves their applications for registration.

Lastly, we have also taken steps to improve our swap trading framework and we will continue to do so in response to feedback.

*Reporting.*—CFTC staff serves as the co-chair of the CPMI-IOSCO Working Group for Harmonization of Key OTC Derivatives Data Elements, along with a representative of the European Central Bank, facilitating international swaps data harmonization.

The Financial Stability Board previously requested a feasibility study to analyze the various options for global aggregation of over-the-counter derivatives trade repository data. Based on the published recommendations of the Aggregation Feasibility Study Group, CPMI and IOSCO established this international working group

to develop guidance on the harmonization of key swap data elements reported to trade repositories. These key swap data elements focus on the goal of fostering global aggregation and include, but are not limited to, a global Unique Transaction Identifier (UTI) and global Unique Product Identifier (UPI).

In addition to this particular CPMI-IOSCO effort on swap data harmonization, CFTC staff participate in several other working groups that address reporting in cooperation with other domestic and international regulators.

#### SUBCOMMITTEE RECESS

Senator BOOZMAN. The subcommittee stands in recess until Tuesday, May 12 at 10:30 a.m., when we will consider the fiscal year 2016 budget request for the Federal Communications Commission.

The subcommittee hearing is hereby adjourned.

[Whereupon, at 11:56 a.m., Tuesday, May 5, the subcommittee was recessed, to reconvene at 10:30 a.m., Tuesday, May 12.]